COAST GUARD DRUG ACTIVITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4230, H.R. 4446, H.R. 4608, and H.R. 4658

BILLS TO ENFORCE DRUG LAWS, TO CURTAIL THE FLOW OF DRUGS INTO THE UNITED STATES, AND PROMOTE A "DRUG FREE" AMERICA

JUNE 15, 1988

Serial No. 100–71

Printed for the use of the
Committee on Merchant Marine and Fisheries

U.S. GOVERNMENT PRINTING OFFICE
89-199
WASHINGTON : 1988

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H 561-11

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COAST GUARD DRUG ACTIVITIES

WEDNESDAY, JUNE 15, 1988

House of Representatives,
Subcommittee on Coast Guard and Navigation,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:35 a.m., in room 1334, Longworth House Office Building, Hon. Earl Hutto (Chairman of the Subcommittee) presiding.

Present: Representatives Hutto, Hughes, Studds, Carper, Brennan, Hochbrueckner, Bennett, Davis, Young, Bateman, Coble, Saiki, and Herger.

Staff present: Gene Hammel, Jeanne Timmons, Larry Innis, Ed Welch, Kurt Oxley, Lee Crockett, Duncan Smith, Rebecca Feemster, Sherry Steele, and Marsha Canter.

STATEMENT OF HON. EARL HUTTO, CHAIRMAN, SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

Mr. Hutto. The Subcommittee on Coast Guard and Navigation will please come to order.

The Subcommittee on Coast Guard and Navigation convenes today to discuss the Coast Guard's role in our Federal drug interdiction effort. The members of the subcommittee have followed Coast Guard drug interdiction activities closely for several years and have tried to provide the funding necessary for the Coast Guard to properly perform its many important missions, including drug interdiction. Regrettably, appropriations have not been forthcoming from the Congress.

Now, however, there is a great hue and cry from Members getting on the bandwagon for new omnibus drug legislation to "win the war against drugs", and Congress is now considering a package of drug legislation costing about $2 billion. I wonder where some of these people were earlier this year when this subcommittee was trying to get Congress to find the $103 million necessary just to keep the Coast Guard—an agency on the front line of drug interdiction—afloat.

Still, if the extra weight of these newly concerned folks makes this bandwagon move faster and more efficiently, we welcome them. However, it is not enough simply to throw money at an increasingly costly and complex problem like drugs. Frankly, there isn't enough money available in the Federal budget to stop a $500 billion-a-year business from importing products grown and manufactured by peasants in relatively poor nations to the world's biggest, most demanding, and richest consumer population for these products, and that is the United States of America.

There are basically two things we are empowered to do. First and foremost, we must decrease the demand for these deadly products. The demand for drugs must decline before any real progress in the drug war will be seen. We must commit ourselves now to policies of education, treatment, and prevention that will bring about a decrease in consumption of illegal drugs.

Secondly, we must work on the supply side. Drug interdiction is a dangerous and expensive proposition. We have to do it; now is the time, however, to put our money where our collective mouths are. We must obligate sufficient resources to interdict drugs at or near their source—not just for this election year but for future years. It is a time to support the people doing this difficult job with more than hollow pledges. It is time to arm those fighting the drug war with the resources and personnel they need to, at the very least, hold the line.

Before rushing into a morass of quick fixes, it only makes sense to examine the history and the successes and failures of existing programs. That is why we are here today. We must look at what has worked and what has not; what equipment is available to the Coast Guard for drug interdiction and how it has performed; how budget cuts have affected the Coast Guard's drug mission; how the drug mission itself has affected many of the Coast Guard's other missions; how the drug trade has changed over time, and how the Coast Guard has responded to these changes.

A review of these issues will better prepare us to make informed judgments on the proposals now before the Congress. Where should limited resources be allocated? What assets are needed? What role should other agencies play in drug interdiction? In short, how can America best fight this drug war?

Amendments to the House and Senate DOD authorization bills proposed that the military be given an increased role in drug interdiction. While I believe that the military can play an increased role in drug interdiction, I share the concern of many of my colleagues on the Armed Services Committee and others in Congress that this may adversely affect military readiness. We fund the military for one primary mission that we all hope it never has to fulfill, protecting this Nation in time of war and deterring war.

The Coast Guard also has many missions that we expect—in fact, have directed—it to fulfill every day, yet it has not been adequately funded this decade. It is inconsistent to worry about the readiness of four branches of our military while its fifth branch, with the greatest number of war and peacetime missions—including drug interdiction—has suffered a shortfall of $103 million in this fiscal year alone.

To uphold congressional mandates regarding drug interdiction, the Coast Guard has been forced to feed upon its shrinking self. This cannot go on. The Coast Guard must not be forced to choose between saving those drowning in the sea or those drowning in cocaine or some other drug.

For this reason, Chairman Jones and I have introduced legislation giving the Coast Guard $264 million to procure and enhance assets, and $82 million for the personnel and follow-on funding to operate the equipment. The bill also makes legislative changes that will enable the Coast Guard and other agencies to do the hard job that we have thrust upon them.

There are many drug bills now before Congress. I'm hopeful that in taking a look at the ones before this subcommittee today we will be able to craft fair, realistic legislation for inclusion in the omnibus drug bill to be offered in the near future. I welcome Admiral Yost and his colleagues here today to assist the subcommittee in this endeavor.

Now we turn to our ranking minority member, Mr. Davis. Do you have any comments or statements?

STATEMENT OF HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN

Mr. Davis. Thank you, Mr. Chairman.

I have a reasonably lengthy statement that I'll submit for the record, and just make a couple of comments in general. Later on, while Admiral Yost is here, I do have some questions that I want to ask him about the money that's supposedly in the defense bill as it relates to the 1989 budget.

And also, as I understand, most of the money that's being allocated from the Department of Defense is in the way of equipment, and what I need to know is how much money you need to have allocated from the Department of Defense to operate all the equipment that they're going to give you.

As you know, both Chairman Hutto and I serve on the Armed Services Committee and I am on the conference committee, and we are in the process of finalizing the conference report this week. I want to make sure that you have adequate money to operate the equipment that supposedly the Defense Department is going to be giving you. I know that this doesn't directly relate to this particular bill we're talking about, but it's a very crucial issue that we need to address and as long as you're here I would hope that you would be able to address that.

I do have, as one of the bills we're going to be talking about today, a bill of my own which has a number of titles in it that hopefully we will consider as we mark up next week whatever bill this committee reports on. I won't go into the various titles in my bill, Mr. Chairman, but I know that we're going to end up reporting a bill that is going to be, I think, a very good bill and helpful to the Coast Guard and the drug interdiction program.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Davis follows:]

STATEMENT BY THE HONORABLE ROBERT W. DAVIS (R.-MICH.) BEFORE THE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OVERSIGHT HEARING CONCERNING THE COAST GUARD DRUG INTERDICTION MISSION, AND LEGISLATION AFFECTING COAST GUARD DRUG ACTIVITIES: JUNE 15, 1988

THANK YOU, MR. CHAIRMAN. THIS SUBCOMMITTEE HAS MADE CLEAR FROM THE START THAT IT WOULD NOT TOLERATE THE USE OR ENTRY INTO OUR COUNTRY OF ILLEGAL SUBSTANCES. TO THAT GOAL I HAVE INTRODUCED ONE OF THE BILLS WE WILL BE CONSIDERING TODAY, H.R. 4608, THE MARITIME DRUG LAW ENFORCEMENT AND ENHANCEMENT ACT OF 1988, WHICH HAS BEEN INCORPORATED INTO THE REPUBLICAN TASK FORCE'S COMPREHENSIVE OMNIBUS DRUG BILL THAT IS BEING INTRODUCED THIS WEEK. I BELIEVE YOU WILL FIND THAT MY BILL HAS MANY MERITS AND THAT IT COMPLEMENTS THE CHAIRMAN'S BILL.

WE ALL ARE AWARE OF THE DEVASTATING EFFECT OF DRUGS ON THE YOUTH OF OUR COUNTRY AND ITS PREVALENCE THROUGHOUT OUR SOCIETY. THERE IS NOT A SINGLE PERSON WHO REMAINS UNTOUCHED BY THIS PERVASIVE ATTACK ON THE CORE OF OUR SOCIETY -- BY INCREASED PUBLIC FUNDS SPENT ON DRUG INTERDICTION, REHABILITATION PROGRAMS, TIME LOST BY EMPLOYEES THAT ARE "USERS", AND DEFECTIVE MERCHANDISE PRODUCED BY AN IMPAIRED WORK FORCE.

THE RHETORIC ON THIS SUBJECT FILLS EVERY PUBLICATION ON THE NEWSTANDS WHILE OUR EFFORTS TO PREVENT THE ARRIVAL OF NEW SHIPMENTS OF DRUGS ON OUR SHORES HAVE NOT BEEN ENTIRELY EFFECTIVE. H.R. 4608 WILL HELP COORDINATE AND REFINE THE EFFORTS MADE BY THE MANY AGENCIES INVOLVED WITH MARITIME DRUG INTERDICTION.

TITLE I OF MY BILL PROVIDES CONGRESSIONAL MANAGEMENT OF EXPENDITURES ON PROGRAMS FOR ILLEGAL DRUGS. IT DIRECTS THE ADMINISTRATION AND THE APPROPRIATE COMMITTEES TO REPORT ANNUALLY ON SPENDING PROPOSED FOR PROGRAMS WITHIN THEIR JURISDICTION. DUPLICATION OF EFFORT CAN MORE EASILY BE AVOIDED AND THERE WILL BE A MORE EFFICIENT USE OF FUNDS IF THE APPROPRIATIONS COMMITTEE WILL CONSOLIDATE ALL APPROPRIATIONS FOR DRUG RELATED EXPENDITURES INTO A SINGLE BILL FOR THE CONGRESS TO CONSIDER. THIS WILL ENSURE ADEQUATE FOLLOW-ON FUNDING FOR THE COAST GUARD TO OPERATE EXISTING DRUG INTERDICTION EQUIPMENT IN THE OUT YEARS AND PREVENT FURTHER DECLINE IN EXISTING COAST GUARD MISSIONS SUCH AS SEARCH AND RESCUE, MILITARY READINESS, AND ENFORCEMENT OF U.S. LAWS DUE TO INCREASED EFFORTS IN INTERDICTION OF ILLEGAL DRUGS.

TITLE II WILL INCREASE THE EFFECTIVENESS OF THE COAST GUARD'S DRUG INTERDICTION EFFORTS AND CLARIFY ITS LAW ENFORCEMENT JURISDICTION. THIS WILL GIVE THE COAST GUARD THE AUTHORITY FOR MARITIME AIR SURVEILLANCE AND INTERDICTION AND PROTECTION FROM LIABILITY FOR INJURY DONE WHEN FORCING A VESSEL TO BRING TO. A NEW SECTION TO TITLE 14, UNITED STATES CODE, SIMILAR TO EXISTING AUTHORITY FOR THE FEDERAL AVIATION ADMINISTRATION, WILL INDEMNIFY COAST GUARD EMPLOYEES FOR CLAIMS AND JUDGMENTS AGAINST THEM FOR ACTIONS WITHIN THE SCOPE OF THEIR EMPLOYMENT. THE MARITIME DRUG LAW ENFORCEMENT ACT WILL BE EXTENDED TO APPLY TO U.S. CITIZENS ABOARD VESSELS OF ANY NATION AND REQUIRE OPERATORS OF VESSELS TO RAISE THE ISSUE OF FOREIGN REGISTRY AT THE TIME OF BOARDING. THE COAST GUARD WILL HAVE THE AUTHORITY TO PURCHASE ADDITIONAL EQUIPMENT ESSENTIAL TO THE MISSION OF DRUG INTERDICTION AND TO ACQUIRE THE PERSONNEL NECESSARY TO OPERATE THE NEW EQUIPMENT. THE COAST GUARD

WILL BE AUTHORIZED ACCESS TO THE CUSTOMS FORFEITURE FUND AND THE INNOCENT OWNERS OR OPERATORS OF VESSELS SEIZED FOR VIOLATION OF SIMPLE POSSESSION LAWS ARE AUTHORIZED REPAYMENT FROM THE FUND FOR DAMAGES AND LEGAL EXPENSES INCURRED DUE TO A SEIZURE.

TITLE III OF MY BILL CONCENTRATES ON DRUG INTERDICTION ON THE GREAT LAKES WHERE DRUG TRAFFICKING MAY BE INCREASING IN DIRECT RATIO TO THE EFFECTIVENESS OF DRUG INTERDICTION IN THE SOUTHEAST. ESTABLISHMENT OF AN INTERAGENCY AGREEMENT BETWEEN THE COAST GUARD AND THE CUSTOMS SERVICE ON MARITIME DRUG INTERDICTION IS REQUIRED AND THE USE OF LONG-RANGE SURVEILLANCE AIRCRAFT IN THE GREAT LAKES AREA WOULD BE EXPANDED. ALSO UNDER THIS TITLE, THE PRESIDENT IS DIRECTED TO ENTER INTO DISCUSSIONS WITH THE CANADIAN GOVERNMENT ON AN INTERNATIONAL AGREEMENT CONCERNING INTERDICTION OF ILLEGAL DRUGS CROSSING THE U.S./CANADIAN BORDER AND INCREASING COOPERATION BETWEEN THE DRUG INTERDICTION OFFICIALS OF BOTH COUNTRIES.

TITLE IV ESTABLISHES A SYSTEM OF IDENTIFICATION OF OWNERSHIP OF RECREATIONAL VESSELS, TO AID IN DETERMINING WHETHER A VESSEL IS A "VESSEL OF THE UNITED STATES" UNDER 46 U.S.C. 1903. THIS INFORMATION WOULD BE KEPT AT A CENTRAL LOCATION FOR EASE OF ACCESS BY ALL AGENCIES. LAW ENFORCEMENT OFFICERS OF EVERY AGENCY INVOLVED WITH MARITIME DRUG INTERDICTION HAVE REPEATEDLY MENTIONED THE DIFFICULTY OF IDENTIFYING VESSELS AND AIRCRAFT.

TITLE V WILL REORGANIZE AND CONSOLIDATE THE FEDERAL MARITIME PROGRAMS WITHIN THE DEPARTMENT OF TRANSPORTATION TO MORE EFFECTIVELY MANAGE THE FEDERAL MARITIME DRUG INTERDICTION EFFORT. THE DUPLICATION OF ANY EFFORT DUE TO OVERLAPPING RESPONSIBILITIES IS A WASTE OF INVALUABLE PERSONNEL AND EQUIPMENT.

AT A TIME WHEN THE UNITED STATES MUST USE EVERY AVAILABLE RESOURCE TO OVERCOME THE FORCES THAT ARE CONSTANTLY SEEKING TO OPEN NEW AVENUES FOR BRINGING THESE ILLEGAL SUBSTANCES INTO OUR COUNTRY, WE CANNOT AFFORD TO WASTE TIME AND MONEY THROUGH MISMANAGEMENT. WE CANNOT TOLERATE ANY ACTION THAT WILL IMPEDE OUR EFFORTS TO WIN THIS "WAR AGAINST DRUGS".

# # # # # #

RWD:SSD

Mr. HUTTO. Thank you, Mr. Davis, and without objection your entire statement will be entered into the record.

Do other Members have opening statements?

[No response.]

Mr. HUTTO. If not, we again want to say welcome to the Commandant of the Coast Guard, Admiral Yost. It's good to have you and your people, and you may proceed.

STATEMENT OF ADM. PAUL A. YOST, JR., COMMANDANT, U.S. COAST GUARD

Admiral YOST. Thank you, Mr. Chairman.

I too have a rather long statement which I will summarize and submit for the record with your permission.

Mr. HUTTO. Without objection.

Admiral YOST. Mr. Chairman and members of the subcommittee, it's a pleasure to appear before you today to provide an overview of the Coast Guard's drug interdiction efforts.

The Coast Guard's drug interdiction mission has undergone significant changes over the past few years: changing narcotics traffic patterns; adoption of more complex tactics by traffickers; cooperation and participation of foreign source countries in international interdiction operations, and increased authority and responsibility for the Coast Guard have required us to adapt to what has become a very sophisticated and complex war on drugs. For example, expensive and complex sensor systems and platforms are required to deal with drug traffickers' increasing use of aircraft.

On a less than positive note, Coast Guard interdiction efforts are being increasingly affected by continuing budget deficiencies. The $103 million shortfall in our operating expense account appropriated by Congress for fiscal year 1988 in the continuing resolution is proving to be a serious blow to our operations.

More than one-quarter of the 1988 fiscal year had elapsed when the final continuing resolution was passed. Almost one-half had elapsed before we were able to decommission ships and stations. To stay within budgeted program hours for the last three-quarters, an estimated 55 percent reduction in routine patrol hours was necessary. The increased assets provided for the war on drugs will not enhance drug interdiction operations without the funds to operate them.

Our interdiction trends show that we can find drug traffickers when we are out in force and aggressively searching for drug traffickers. I need to put detection assets in the choke points and departure zones where the traffickers are most vulnerable to interdiction. The additional resources provided pursuant to the 1986 Anti-Drug Abuse Act and any resources that might be provided as a subsequent authorization certainly will not catch traffickers if the assets are tied up at the dock or sitting on a runway.

The 55-percent reduction in routine patrols I was forced to take this year has had a serious impact on seizures. As a general rule our increased presence in traditional patrol areas has increased boardings and seizures. Many Coast Guard seizures are a result of routine cutter and aircraft patrols.

Coast Guard efforts against drug trafficking in the maritime environment cannot succeed without constant pressure placed against all modes of trafficking. It was apparent that while we were having a significant impact on drug trafficking, that is vessel drug trafficking, air trafficking went virtually unchecked, with cocaine and other high value drugs being flown through the maritime region and often airdropped or transshipped in the Bahamas.

The Anti-Drug Abuse Act of 1986 provided for the transfer of four E-2C aircraft from the Navy: two to the Customs Service and two to the Coast Guard. Supported by Coast Guard HU-25 interceptors, Coast Guard E-2C aircraft began integrated air interdiction operations in January 1987. These aircraft have helped effect the seizure of numerous aircraft and a significant amount of cocaine and marijuana.

Three of the eight sensor-equipped HU-25 interceptors have been delivered and their integrated intercept radar and forward looking infrared sensors are substantially increasing our air interdiction capability.

The Navy has increased its commitment to air search-capable ships during our Caribbean pulses, and I am certain that these actions will increase our effectiveness in prosecuting the air interdiction mission. With your help we have achieved some notable successes to date. But we must all do more. We must attack the problem; we must focus on stopping drugs at or near the source, intercepting wholesale quantities as close to the point of origin as possible. In order to be effective in doing that the Coast Guard needs improved intelligence; improved command and control and communications capabilities; fully trained and qualified personnel, and we need to increase our surveillance and detection. We can't catch what we can't find. It is essential that we have, as requested in the President's budget, adequate funding. The Coast Guard 1989 budget bill will greatly help in this area.

Finally, we need clear definitions of responsibilities and authorities and jurisdiction within the Federal Government so that agencies involved in every aspect of the drug problem have clear marching orders. The National Drug Policy Board has addressed this problem—it could be, and I say this as an aside, it could be less than helpful to now have the Department of Defense assigned to a planning and execution function and responsibility for drug interdiction in hasty legislation.

Congress can demonstrate its leadership in drug interdiction by providing the resources we need to do the job, not only the acquisition, construction and improvement funds but the operating expenses needed to operate them to the limit of their capability. A $60 million reprogramming request for 1988 was submitted to Congress several months ago. We badly need these funds to make full use of our existing interdiction assets which are presently being utilized at much less than their full capability. We also need the full amount in the President's 1989 budget.

As a final thought I believe our national drug interdiction strategy is sound. The Coast Guard is playing and should continue to play an essential role in that strategy. Thank you, Mr. Chairman.

[The prepared statement of Admiral Yost may be found at end of hearing.]

Mr. HUTTO. Thank you very much, Admiral Yost.

Just in a nutshell, if you will, please give the subcommittee an overview of the Coast Guard's involvement in drug interdiction from 1980 forward.

Admiral YOST. Let me say——

Mr. HUTTO. Bring us up to date on the Coast Guard's involvement in drug interdiction.

Admiral YOST. Let me say that by 1980 the Coast Guard was very much involved in the southeast United States. We were aware of the drug problem, and the drug problem was getting progressively worse.

In 1982, the Vice President established the Southeast U.S. Task Force. That task force was in response to an outcry from the people of the Southeast United States, particularly Florida, who were concerned that their State was becoming a major haven and transshipment point for drugs into the United States. That was established very quickly. Afterward, in 1983 the Vice President established the National Narcotics Interdiction Border System that took this successful plan that had been proposed by the people of Florida to other parts of the country.

In 1984 we planned our first major interdiction operation off the shores of Colombia. At that time I had just become the Commander of the Atlantic Area with the responsibility for the Caribbean, the Gulf of Mexico, and the Atlantic. With the help of Rear Adm. Rick Cueroni, who was then the District Commander in the Seventh District, we put together what for that time was a major operation, about 10 Coast Guard ships and about 4 Navy ships with dedicated air radar coverage for 2 months in the deep Caribbean. We made a massive impact on marijuana smuggling.

President Betancourt came in behind us in Colombia as we blockaded the coast of Colombia. His forces scattered throughout the coast area and burned and pillaged the marijuana that was blockaded and stockpiled on the coast. And during that year we could account for a great percentage of all of the marijuana grown.

The follow-on years we repeated our Wagon Wheel operation. We now call it Hat Trick. It became less effective each year as the drug smuggler stretched out his shipment season; took opportunities to bypass our blockade; began to shift into cocaine, and began to move the drugs, both marijuana and cocaine, by air.

Since that time the drug smuggler has become more sophisticated in orders of magnitude. He has used air transport extensively. Cocaine has become not only the drug of choice to the shipper, it is the drug of choice in the United States. This country is awash in cocaine. We are interdicting a very small percentage of cocaine, probably less than 10 percent. Our effectiveness in marijuana continues to stay high, probably 30 or 35 percent. I give us a B plus in marijuana, and I give us a D in cocaine.

We need the assets that are very sophisticated and very expensive to handle the air war, which is primarily cocaine. I would put one additional item to that. The drug smuggler, seeing that we are getting more sophisticated in cocaine with E-2C's and HU-25's and helicopters in the Bahamas, is beginning to move into other areas of shipping cocaine. We think that there is much more now coming in containers in commercial air.

As we take each step, he moves out in front of us. So the war is extremely sophisticated.

Mr. Hutto. OK, Admiral.

During these years was there any money, up until the 1986 omnibus drug bill passed, that was provided to the Coast Guard for drug interdiction? That was just an added part of your missions, is that correct?

Admiral Yost. Well, there was no money specifically provided for interdiction but there certainly was an indication that the Congress, as well as the Administration, was more and more concerned over this problem. And the indication was certainly for the Coast Guard to get more and more involved. During that period we moved from about 7 percent of our budget involved in drug interdiction to something now around 24 or 25 percent.

As I remember, before the ADAA of 1986, the only money that was specifically tied to drugs was some LEDET money, and then there was some money for patrol boats. And I think that was before the ADAA of 1986.

Mr. Hutto. OK.

Has the Coast Guard spent the money it has received from that 1986 drug bill? Is all of the equipment provided for on-line now?

Admiral Yost. All of the money has been obligated from the Anti-Drug Abuse Act, the ADAA of 1986. Not all of the equipment has been delivered. Now, some of those things came on line very fast; for instance the Navy loan of the E–2C's. They were "equipment in being". We got them and we stood them up very, very quickly and so they are on line. Other things like communications, the Bahamas dock facility, took more time, and the 360-degree radars which were originally provided for—that money was provided to put 360 degree radars on our C–130's. We had to go through a reprogramming action to get that to use in our Falcons.

So for a lot of that money, the equipment has not come on line. I would expect it would be on line within about the next nine months. Almost all of it will be on line.

Mr. Hutto. OK, in that bill was money included to modify P–3 and C–130 aircraft with a 360-degree radar capability? I understand that a P–3 has been enhanced with this radar and is being transferred to the Customs Service this week for use on the southwest border. Have your people seen the modified P–3 and evaluated its performance in test flights? And are you recommending—or reconsidering, I should say—the possibility of having C–130's modified?

Admiral Yost. I've got to rain just a little bit on my Navy colleagues which I seldom do in this matter. I was assured by the highest levels of the United States Navy that a P–3 could not be modified for a 360-degree radar and be an effective weapons system for less that $250 million, and even at that it was a very high risk operation. It could and probably would fail. I am still being assured by some of my Navy friends that this airplane will not operate properly and we will find that it will not be an effective weapons system.

On the other hand, my Customs colleagues are telling me that the aircraft is coming along very, very well and that they have ridden in it and tested it and that it performs well and that they expect it to perform far better than adequately.

I have not ridden in it, and none of my officers have ridden in it. We intend to in the very near future. If in fact that aircraft was modified for $19 million and it is an effective AEW platform, then I have probably made a mistake. I reprogrammed the $45 million I had for doing the same thing for C-130's for something else, although what I used it for was absolutely critical—that's the HU-25 intercept radars.

If an AEW airplane, like the C-130, can be modified for anywhere near $19 million or $20 million a copy, I would be very, very interested in bringing that system on line to augment or ultimately replace the E-2C aircraft.

Mr. CARPER. Would the Chairman yield?

Mr. HUTTO. Yes, I'd be happy to yield to the gentleman from Delaware.

Mr. CARPER. One of the other hats I wear is as a naval flight officer and a mission commander of the P-3. We fly a lot of surface surveillance operations with the P-3. We have a radar system called the OPS-80. It is a 360-degree radar, fore and aft, 180 in each direction. I presume you are talking about an updated radar system. I guess my question is why that is inadequate.

Admiral YOST. The P-3, as you pointed out, is a surface observation aircraft. It has, as my understanding, not a good capability—almost a lack of capability—on an air-to-air basis. What we need here is an air-to-air radar, and the P-3 has done a magnificent job for us in surface surveillance.

We use it all the time. We get uncounted hours of P-3 time from the United States Navy in the marijuana war which moves on the surface.

Mr. CARPER. I'll defer further questions. Thank you, Mr. Chairman.

Mr. HUTTO. OK, thank you.

One more question in this round from me. What about the personnel and funding to operate the equipment we've been talking about in the 1986 drug bill? Was sufficient follow-on funding provided either in the bill or in subsequent appropriations?

Admiral YOST. The ADAA of 1986 provided $39 million worth of OE. Now, that's the good news. The bad news is that 1986 was a very, very bad year for us.

As the Anti-Drug Abuse Act of 1986 came on line, our budget seemed to be discounted in the DOT appropriation. By the time we got into that fiscal year, I had some major shortfalls in my base, and some of that $39 million was frankly used to fill in massive holes in my base. For instance, I had a fuel shortfall of $17 million that had been hacked out in the appropriations process. It was tagged at $17 million because it was believed that the price of fuel would surely fall. Of course, the price of fuel didn't fall. So I had a choice of either taking some of that $39 million and putting it into the base, or not flying and sailing ships.

Of the $39 million, $17 million of it I immediately took in fuel to run my ships and aircraft. About $8 million of it we used to operate the E-2C's that we got and we stood up almost immediately. We used some of it for our Aerostat communications and that basically, with some little new equipment and some pipeline training, took up the whole $39 million.

Well, the importance of the $39 million is that it was in the base and it should have been recurring in 1987, 1988, and 1989. And to the extent that the base has again been discounted by $103 million this year, it shows you that $39 million didn't stick. No, I don't have sufficient funds to operate those assets. The crime of it is that because the assets are new and because it's the feeling of both Congress and the administration and myself that drug interdiction is very important, I tend to operate the new assets at the expense of older assets, even to the extent of closing 30 stations throughout the United States Coast Guard on the east and west coasts, the Gulf and the Great Lakes. It's a zero sum game. I'm operating new assets at the expense of existing assets.

Mr. HUTTO. Okay, Thank you.

I would ask members to stick to the 5-minute rule. We'll come back for other rounds and you'll have plenty of opportunity to ask questions.

Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman. I'll try to stick to 5 minutes. I'm not sure that I can but I'll try to come close.

Two things, Admiral, that I need to talk to you about while you are here: the $60 million reprogramming in appropriations this fiscal year, and I want to talk about the $410 million in the Defense Appropriations.

First lets talk about the $60 million. The House Subcommittee has approved the reprogramming of $60 million. It's now pending before the full committee, and we expect that by the end of this month they will approve the $60 million reprogramming.

My question is, and if you have different information please let us know, will you be able to utilize the whole $60 million? Will you get the whole $60 million, being that more than half the fiscal year has already gone by? That's my first question.

Admiral YOST. We'd be able to spend the $60 million effectively, and we critically need it even if we got it on the last day of the fiscal year because we have a stack this high of purchase orders for spare parts that we need to operate the Coast Guard and don't have.

On the other hand, if we were to get it tomorrow, I would be able to reconstitute 100 percent of my drug patrols and put those out right now and buy a few less spare parts. So we can use it effectively whenever we get it, but the critical part is that we don't have the drug patrols out there, and we need it as soon as we can get it.

Mr. DAVIS. OK, Admiral, but I hear you telling me that every penny is going to be used for drug efforts. We're all committed to the drug effort, but let's remember that search and rescue is an important part of the Coast Guard, too. In fact, we mandated in last year's bill—which you did not follow—that you do not take search and rescue money and transfer it over to drug interdiction. And frankly, you have.

I guess I would want you to perhaps keep in mind using some of that reprogramming, if you need it, for search and rescue.

Admiral Yost. Let me say that if we get that money, the larger portion of it will go into spare parts and maintenance for our ships and aircraft across the board; that supports search and rescue.

The smaller part of it will go into fuel, which will fuel not only our ships in drug interdiction but search and rescue as well. So yes—and by the way, I just testified, probably at my risk, that I took $39 million out of drug money, particularly tagged, and moved it into search and rescue two years ago. So, it's a two way street; I'm guilty in both ways.

Mr. Bateman. Would the gentleman yield?

Mr. Davis. Sure.

Mr. Bateman. Mr. Chairman, I feel terribly frustrated when I hear the Admiral talk about this reprogramming. That was submitted very early in this session. Today is June 15, and everyone knows how vital that is to the total operations of the Coast Guard and especially resuming the full drug interdiction patrols. Can we not address a letter from this committee to the Appropriations Committee urging them to move expeditiously, in fact immediately, on this reprogramming?

Mr. Hutto. I have talked personally with the appropriations people, including the Chairman of the full committee, about the Coast Guard funding problems but certainly we can do it as a group or individually. I think that any efforts that we make toward trying to get the appropriations to move would be a well placed—

Mr. Bateman. Mr. Chairman, I would respectfully suggest—even request—that a letter be sent on behalf of this subcommittee to the Chairman of the Appropriations Committee urging the earliest possible action on this reprogramming.

Mr. Davis. I might ask, Admiral, is it your understanding as it is my understanding that they're going to do this by the end of this month? Have you heard that?

Admiral Yost. It was my understanding that Chairman Whitten had committed to having this done by the end of the month. Based on that information, which is not direct information—I have not talked to the Chairman—I have met with my Chairman on the Senate side, Senator Lautenberg, yesterday afternoon. He has given me every assurance that once he gets that action from the House he will move it very, very quickly through his committee to full committee.

Mr. Davis. I think probably the gentleman has a good suggestion and we might want to do that. Let me just quickly cover the $410 million that has been actually included, or will be included as part of your budget this year.

Of the $410 million, as I understand it, $350 million is in the AC&I account and $60 million will be for operations. Is that correct? And in your conversations with Secretary Carlucci is that what you foresee happening?

Admiral Yost. I have not spoken to anybody over at Defense about it. It is my understanding that $410 million was earmarked for the Coast Guard, with $350 million to be used by the Department of Defense to buy equipment which they would then loan to the Coast Guard, with the $60 million being used in OE. That was my understanding of the bill.

Now, how that would play with the Senate was an item that I talked to Senator Lautenberg about yesterday and expressed my concern that the Senate bill and the House bill would not be conferenceable if the House was talking about a loan of equipment and the Senate was talking about a different amount of money to be used by the Coast Guard.

He assured me that he had discussed this with people on the House side and that he felt confident that the bill would be conferenceable and that the Coast Guard would get all of its money in kind or otherwise in a way that we could spend it.

Mr. DAVIS. You have submitted a list, I assume, to the Department on exactly what kind of equipment you want? Or are they just going to give you what they want to give you?

Admiral YOST. No, I thought that the bill was earmarked. So many E-2C's, so many patrol boats, etc. Earmarking it like that gives us a problem in other parts of our appropriations. It's very hard to put roofs on search and rescue stations when your money is marked for patrol boats or E-2C's.

Mr. DAVIS. Are you going to need the ability to reprogram some of that $410 million?

Admiral YOST. It could be. It depends how that bill comes out. But if it's all tagged, if $350 million of it is line itemed, that could be a great portion of our AC&I appropriation. If it's too tightly tied, then we would have to come up with a reprogramming action to allow us to do those things that we have to do in the AC&I appropriation.

Mr. DAVIS. Do you anticipate that you're going to do that, absent any language in the DOD authorization bill? Can you do it if there's no language forbidding you to do it?

Admiral YOST. Well, our experience is that they read the letter of the law in authorization, and if there isn't clear language in authorization we have a terrible, terrible time getting them to spend that money in a way that we want them to.

Mr. DAVIS. And so are you saying that——

Admiral YOST. Yes, we would have to come back in all probability if it's too tightly tied.

Mr. DAVIS. So should we have some language in there that allows you to reprogram?

Admiral YOST. Yes, that would be extremely helpful.

Mr. DAVIS. Did you ask for that?

Admiral YOST. We have not. We have not been involved in the DOD authorization or appropriations at all.

Mr. DAVIS. OK, Mr. Chairman.

Mr. HUTTO. OK, we'll be back for a further round. The gentleman from Massachusetts.

Mr. STUDDS. Thank you, Mr. Chairman.

The gentleman from Virginia, I think, used the word "frustrating." There probably are stronger words we could use. I don't know how to characterize this institution's approach to this problem. We ought not to be snapping at you—I don't know what the right analogy is, maybe like a dog that turns around and bites its own tail. We're really barking at ourselves. We are, along with the Administration, a party to putting you in the untenable situation you are now in.

It's not your fault. It wasn't your predecessors' fault that they had to come up here in the first 4 years of this Administration and defend dramatic cuts or requests for cuts in the Coast Guard budget.

As I've said before, we're lucky that there is a Coast Guard in one respect, because we did not take the Administration seriously in the first four years, or there would not have been a Coast Guard Academy for the President to deliver the commencement address from, I don't think.

You said that you'd received the message that from the point of view of the Congress and the administration, drug interdiction was very important. I think that the only way that you can get that message is if you count words rather than dollars. If words were the weapons in this war it would have been won some time ago, just those that could be marshalled in this building, or downtown, or across the Hill.

But words are not weapons, as you know better than anybody else. Yesterday morning—I don't know if it's been reported to you—I was on the Cutter *Vigilant* tied up at the dock in New Bedford along with the Governor of my State. We ought not to have been making that trip. The *Vigilant* ought not to have been tied up at the dock. It's a paradigm, a mess that we're in.

This is a very major Coast Guard cutter in the port of New Bedford. One of its principal missions, obviously, is drug interdiction. It's been tied up there for several months, and it's going to be tied up there for several more months. It has nothing effectively to do but to polish itself, and to wait until you get the money to put her back at sea on all of her missions, including drug interdiction. It's a perfectly sad and ridiculous symbol of tragedy, if that's not too strong a word, the incongruent mess that you are in and that we in the Congress sit here sniping at you about, when we did it.

You lost that $130 million because of a budget summit agreement. That was not an agreement to which the Coast Guard was a party. It was an agreement between the President of the United States and the leadership of the Congress of the United States, both of whom are now screaming at one another about the inadequate funding for the Coast Guard. Which is hysterical—or would be funny if it were not for the consequences of it. You also lost some money due to the first cuts under Gramm-Rudman, as I recall.

Gramm-Rudman was requested by the President of the United States and enacted by the Congress of the United States, and it cut your budget even more. Now the President and the Congress are very upset and they are blaming each other about the inadequacy of your funding. There are words for that, but since this is a blithe institution, I'll try to refrain. On the reprogramming request which Mr. Davis asked you about, and I should know this—I apologize—from where did the subcommittee take the $60 million?

Admiral YOST. Let me start back and say that the administration proposed a number of grant programs and highway demonstration projects, money that hadn't been obligated, about 1 percent of Amtrak budget and some other things. By the time the subcommittee took a serious look at that, surprise, surprise, many of the unobligated and old demonstration projects miraculously, overnight got obligated. So there turned out to be not so much money available in some of these projects as first thought.

So, about $24 million of the $60 million was taken from the Coast Guard AC&I funds. R&D funds and AC&I funds took the brunt of it, about $24 million.

Mr. Studds. So you devoured yourself?

Admiral Yost. I kind of feel like I'm eating my tail, not biting it, sir.

Mr. Studds. Where did the rest of it come from?

Admiral Yost. The Panama Canal, apparently, volunteered $10 million of it. And I'm not aware of where the other came from. We will provide that for the record.

Mr. Studds. I can hardly wait to find out.

[Information to be supplied follows:]

Sources of Coast Guard Supplemental

	($ 000)
Access Highways to Lakes (2/3 of unobligated balances)*	$ 4,303
Territorial Highways - old balances	457
Motor Carrier Safety Grants (balance of an interim appropriation made before Highway Act funded program)	2,460
Conrail Labor Protection (residue of appropriation)	129
Facilities Engineering and Development (FAA) (balance of 1982 appropriation)	651
UMTA Formula Grants (estimated recoveries of prior year -- 3 year old completed projects)	16,000
UMTA Research Training and Human Resources (about 30% of 1987 carryover)	2,000
USCG AC&I (unobligated balances of deferred projects)	8,000
Research Dev. Test Eval (proj. 1988 carryover)	8,000
Pollution Fund - drawdown reserves	5,000
Offshore Oil Pollution Compensation Fund	2,000
Deepwater Port Liability Fund	1,000
Panama Canal Revolving Fund	10,000
TOTAL	$60,000

* Apparently omits Mississippi Projects but includes North Dakota, Oregon, and Minnesota.

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Mr. **Studds**. I understand you gave a speech in Salt Lake City a couple days ago. Is that correct?

Admiral **Yost**. Yes, I did, sir.

Mr. **Studds**. You upset my mayor in New Bedford. He came back—he was on the *Vigilant* yesterday, and he said, "What does the Commandant mean when he says we have to take money out of mass transit?" Did you say that?

Admiral **Yost**. Well, I didn't mean Massachusetts transit, sir. [Laughter.]

Mr. **Studds**. No, of course not.

Admiral **Yost**. He misunderstood me.

Mr. **Studds**. That's what I told him.

But again, there you are. This is the box which we have created ourselves and against which we are now railing. The straightjacket that we find ourselves tied up in is of our own making, and cinched tighter and tighter, deliberately and with great fanfare by ourselves.

I think you say in some of your testimony that the amount of your budget devoted from drug law enforcement has gone from 7 to 21 percent in the last few years? Is that correct?

Admiral **Yost**. About 7 to almost 25 percent now, sir.

Mr. **Studds**. Over what period of time?

Admiral **Yost**. Less than 10 years.

Mr. **Studds**. Well, somewhere, something in your budget has been reduced, then, by roughly 14 percent over that time. What would that be?

Admiral **Yost**. All of our other missions have been reduced. I think we are funded now to—the analysis that I did in the last day or so showed that we were taking about a 17 percent reduction in missions like search and rescue, aids to navigation, marine pollution, etc., in order to provide the additional action in drug interdiction.

Mr. **Studds**. Each of us can think about that as our vessel takes on water.

Admiral **Yost**. Yes, sir.

Mr. **Studds**. Finally, your favorite subject and mine.

I and perhaps other committee members have a standing request in with the Coast Guard and the Customs Service for updated information on a fairly regular basis with respect to vessels you are seizing, commercial fishing vessels in particular under the zero tolerance policy. I gather that with most extraordinary tact you have thus far not seized any in the Northeast, although you seem to be doing rather well elsewhere in the country. You are very well aware of my concern with the Government seizing vessels for the most microscopic amounts, throwing men out of work and making it impossible for them to earn their livelihood when they are utterly innocent parties. I have said before that I will try to find a mechanism whereby the Government of the United States owes restitution to those who have been deprived of their means of livelihood by their own Government through no fault of their own. The very least you can do is pay their mortgages if you've made it impossible for them to earn a living.

Do you know whether or not you still have our research vessel, the Atlantis, from Woods Hole? Is she still constructively seized by her own Government?

Admiral YOST. No, I don't know that. I am told that the Customs Service has released the Atlantis.

Mr. STUDDS. Well, I hope that's true. If it is, it's within the last few hours or days.

Admiral YOST. Is that right?

Mr. STUDDS. She has been physically released, but she remains under what is termed "constructive seizure," which means the lawyers' bills are still running.

Admiral YOST. I am not familiar with that, sir.

Mr. STUDDS. Well, if I can find a way to hold the United States Government responsible for however many thousands of dollars the Woods Hole Oceanographic Institution has lost from scientific research because of the lunacy of its own Government, I can assure you that I'm going to try to find that way.

Given what you have told this committee—and I will end on this—and what we all know sadly about the absolutely hopeless inadequacy of your resources to do the job that you are tasked to do, to go about arresting commercial fishermen, research vessels, etc., because one-tenth of an ounce has been found in someone's shaving kit, does not strike many of us as a particularly rational allocation of dangerously scarce resources. We will try to find a way to help you out from under that straightjacket. That one is of Customs Service's making, however, not ours.

Thank you, Mr. Chairman.

Mr. HUTTO. Thank you, Mr. Studds.

Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

I want to say that I think, Admiral, as the gentleman from Massachusetts said, we should not be sniping at you. Less you think we are sniping or snipping or snapping and/or snarling, I want to say that as America's oldest seagoing service continues its war on this, our most consistently plaguing problem—and I think it is—I think that given the restricted funds with which you are forced to operate, you have responded admirably and effectively, or as effectively as you can.

Having said that, I want to talk to you for a minute or two, Admiral, specifically about the Surface Effect Ship patrol boats. Now, I think the Coast Guard operates three Seabird Surface Effect Ship patrol boats. These boats are apparently used primarily for drug interdiction, and I believe they have been involved with several significant drug seizure cases.

I would appreciate your comment, Admiral, on the effectiveness of the SES's in the drug interdiction role.

Admiral YOST. Thank you, Mr. Coble. I'm glad it was brought to my mind, because that's another area where specific money was provided to the Coast Guard prior to 1986 to buy those three SES's. Money was provided by the Congress. We were directed to very quickly procure patrol boats. Two of the SES's were already built; we were able to go down to that shipbuilder, which was Bell-Halter, and purchase two of the boats already completely built. They had already started building the third one. And very, very quickly, Bell-Halter provided us on a sole-source kind of basis three patrol boats. They have been extremely effective. They have to their credit literally hundreds of narcotics that they have captured or seized or interdicted. They have been outstanding vessels.

They have gone through some development. We weighted them down too much and slowed them down and we had to take some weight off of them and do some overhauls and what have you, but by and large they have been a superior piece of equipment.

Now, having said that, we are in the process of planning our patrol boat buy out into the future as far as we can see to replace our existing 95-foot and 82-foot patrol boats. We did a very thorough analysis of the *Swath* vessel, which is a very special vessel design; we took a look at the SES design, which we had a lot of experience with; and we took a look at a more conventional design. We wanted to do a mix; however, in the final analysis the decision was made to go with a conventional design, and that's why we have now purchased 37 of the *Island*-class patrol boats. We're talking about a *Heritage*-class to follow on to it, and we're no longer talking about buying any more SES's. That's not because they haven't been a superior boat, but we didn't think that they would serve us as well in the long term as would the one class of conventional vessels.

Mr. **Coble**. To continue that, Admiral, I think that the *Seabird*-class—if I'm incorrect, set the record straight—I think it has unique capability, a surface speed in excess of 30 knots, greater stability in rough seas, the ability to maneuver in more shallow water than conventional patrol boats. Have these unique features of the SES craft been instrumental in drug interdiction work?

Admiral **Yost**. They have been extremely valuable, particularly as single-mission vessels in the drug war. As you say, they are shallow draft. They can go places in the Florida Keys where a deeper draft conventional hull couldn't go. They are very stable in a seaway; you can bring them down off the bubble, and they ride like a barge. That is, at slow speed they are very, very stable. And they are high speed; they are up in excess of 30 knots. So they have been an extremely valuable boat for us for the special mission of drug interdiction.

Mr. **Coble**. Do you have a requirement for additional *Seabird*-class boats? I think we may have touched on that before.

Admiral **Yost**. We had a requirement for additional patrol boats. The *Seabird*-class would be particularly good around parts of the Bahamas, but in buying a patrol boat for a 20-year or 30-year service life, the decision was made to go with a conventional hull rather than the SES after a lot of analysis and a lot of comparison. That's not to put down the SES vessels at all; I wish I had a lot more of them, but I don't. And I don't have unlimited funds; I've got to focus on what I know will do me the best over the next 30 years.

Mr. **Coble**. Thank you, Admiral.

Thank you, Mr. Chairman.

Mr. **Hutto**. Thank you, Mr. Coble.

Mr. Carper?

Mr. **Carper**. Thank you, Mr. Chairman.

Could we go back to the 360-degree air surveillance radar, the P-3? What were we given as a price tag on that?

Admiral YOST. Well, the price tag was $19 million, but that was considering——

Mr. CARPER. Per copy?

Admiral YOST. It was $19 million for the first one. The buy included the Government providing the radar, the rotordome antenna, and the aircraft. The company—Lockheed—integrated the system for $19 million.

Now, there is some thought within the Navy and within Customs that they didn't do that for $19 million, that they had some Grumann money or some Lockheed money in that. That's beyond my knowledge. I don't know what the cost was, but I know the cost to the Government was about $19 million.

Mr. CARPER. What was the major component of that? Was it the aircraft or the radar system?

Admiral YOST. The major components of the radar system were the APS-125 radar and the rotordome antenna.

Mr. CARPER. No, what was the major component of the $19 million? Was it the cost of the aircraft?

Admiral YOST. I would guess the major cost was the integration of that system; to make the system work through those four propellers that are turning; and to make that system work through the vertical stabilizer, not to get the shadows and the reflections and the other things that cost so much to get the E-2C running. I think a lot of it was there, and the Navy told me that was going to cost them $250 million. I don't think it did, but Lockheed would know better than I.

Mr. CARPER. I just note that the Navy flies a lot of P-3's. Most of them are now P-3C's; we're even starting to put them in our reserve forces. My understanding is that a lot of P-3A's and P-3B's are simply being left on the ground, not being used anymore.

Admiral YOST. Well, I think it's a great aircraft. The A's and B's aren't being used any more. They are not supportable in the regular Navy system. I'm very reluctant, as a military service, to take on an aircraft that isn't being supported in the Navy system and to have to maintain that aircraft through contract methods as the Customs Service is. I think that's very expensive, and I don't think that it helps the war effort.

I want an airplane that's fully supportable in the military system, so that when the balloon goes up and I report to the Secretary of the Navy I can salute him and say, "I'm coming with the Coast Guard, and by the way, all of our equipment is dovetailed," which it is now.

So I don't like to have an aircraft that I have to support outside of their system when it's one of their airplanes.

Mr. CARPER. Well, we support the P-3A and P-3B now in the Navy system.

Admiral YOST. The P-3A and P-3B are being maintained?

Mr. CARPER. Sure.

Admiral YOST. The Navy made a big point to me that that aircraft was not supportable, and Secretary Weinberger wrote a letter to the Drug Policy Board saying that because the aircraft was not supportable within the Navy system it would be, in his opinion, against the law to use DOD money to retrofit that with the radar, which was Government-furnished. That was later worked around, but there was a big point made of it at the time. I am talking from memory, now, so I may have some of the facts a little muddled, but the thrust of what I'm telling you is basically true.

Mr. CARPER. I know that these P-3A's that are supposedly not supportable in my own reserve squadron were just operating in Rota, Spain; Lajes; Sigonella, Sicily; as well as out of Willow Grove, Jacksonville, FL, and Brunswick, ME. I think we are supported out of all of those bases. Those are P-3A's.

Let me turn to another subject. You've already talked about the reprogramming. Let me turn, if I can to the status of the Coast Guard authorization bill for 1988. I understand we are now in conference, and now both a 1988 and a 1989 bill are about to be in conference.

Mr. Chairman, is that correct?

Mr. HUTTO. We're still working toward that, yes.

Mr. CARPER. How does the adoption of the 1988 authorization bill help you this year in terms of financial assets?

Admiral YOST. Well, the 1988 authorization bill had a lot of items in it that the Coast Guard needed very badly to do our business. One of them that comes to mind was merely adding the word "over" when it talked to the Coast Guard missions. It talked about "on and under the seas," and that was written before there were airplanes in Title XIV. It modifies Title XIV to say "on, under, and over the seas," just to show that we do have authority and jurisdiction over the world's oceans.

But there are things like that in it that are important to us, in addition to authorizing our money. It's a critical bill for us.

Mr. CARPER. Just in terms of relative importance—I'm sure they're both important—which is most important to you, the reprogramming of the 1988 money that was discussed earlier or the adoption of the authorization bill? If you had to put one as more preeminent, which would it be?

Admiral YOST. Well, of course, the 1988 reprogramming is the most important time-wise to us because time is running out on it. The authorization bill—those things we can wait a little longer for.

Mr. CARPER. One last question. Both the House and the Senate have expressed their interest in using Department of Defense assets more extensively in the war on drugs.

Two questions. One, would you describe how these DOD assets are currently used and integrated with the Coast Guard?

And second, would you describe how they might be used more effectively?

Admiral YOST. Yes. Let me talk first about the Atlantic and the Pacific. In each case the assets that the Navy has are controlled—as you know, being a naval officer—by CINCLANTFLT and CINCPACFLT. CINCLANTFLT and CINCPACFLT have a quarterly planning/scheduling conference, and one of my officers from my Atlantic Area Command in New York attends that planning conference. We ask for ships and aircraft at that planning conference on a quarterly basis. Admiral Kelso, U.S. Navy, four-star, CINCLANTFLT, has been very, very forthcoming in scheduling ships and aircraft for the Coast Guard in the Atlantic, and the same thing has happened in the Pacific. We've gotten 2,500 ship days from Admiral Kelso this year, most of that operating in the Caribbean, and some of it dedicated time; not just passing through the area with a LEDET, but dedicated pulses, including an oiler to go down and support his ships and my ships in the Caribbean.

P-3 time—he schedules that as well, and a lot of P-3 time that we depend on as critical to our surface interdiction operations. So that's how it works.

Now, we get E-3 time from the Air Force and E-2C time from the Navy, and we get some helicopter support from the Army in the Bahamas, as well.

So it's a critical participation that they're doing now. I foresee, if I had my druthers—if Congress asked me, "How do you see the Department of Defense helping in the ADAA of 1988," I would encourage more participation of the kind we're getting now, more assets, more ships, more aircraft. And if I were asked, "Admiral, do you think that you need the Department of Defense to move in and plan and execute this drug operation," I would say, absolutely not; I think it's counterproductive. It's counterproductive to the drug operation because they're going to have a steep learning curve to come up on step in running this war. And two, it's counterproductive to the security of this country—which I know something about as well—to get the top security people in this Nation focused on the drug war when I think they ought to be focused on the Warsaw Pact and other cunning enemies abroad. That's gratuitous, but that's my opinion.

Mr. CARPER. Thank you, Admiral.

Thank you, Mr. Chairman.

Mr. HUTTO. Thank you, Mr. Carper.

Continuing on the DOD participation—well, first of all let me ask you about personnel levels. A few minutes ago I asked you to bring us from 1980 up to the present time on what you've done in the way of drug interdiction. I'd like to ask you about the personnel levels during those same times. How do current levels compare with the levels in the early 1980's?

Admiral YOST. I may have to submit this for the record just because I don't think I have it with me.

Mr. HUTTO. All right.

Admiral YOST. Maybe it will help to say that we are on an inclined plane on the way down in personnel levels. Not only in the active, but in the reserve as well; this last year we lost 1,200 reservists. We lost about 1,000 regulars. We have constantly gone down in people.

As you know, sir, you and I agonized over my decision a year or so ago to take 500 people out of the logistics chain and put them in the operational chain. We did that, and in spite of doing that we still lost 1,000 people.

I've got the numbers here. In military personnel in 1980, we had 38,900; in 1981, we had 39,400; and in 1987, we now have 38,500. So from 1981 to 1987 we've lost 1,000 people in the active duty force, and the reserves are probably the same.

Civilian personnel has been even worse. We had 6,600 civilians in 1980. In 1987, we had 5,600, so we've lost 1,000 of our civilian personnel, and those are the people that provide the continuity in what we do.

Mr. HUTTO. Yes. Well, I wanted to ask that as a follow-on before I begin my regular round.

Now I yield to the gentleman from New Jersey, Mr. Hughes.

Mr. HUGHES. I thank the Chairman.

I want to apologize for not being here for the testimony in chief because we had a markup in Judiciary.

I have a number of questions. First, a follow-up with regard to the use of the military. I am one of the conferees to the Defense authorization bill as we try to come to grips with just what is the proper role for the military in drug enforcement. It's a highly emotional issue because we look upon the military, perhaps, as the cure-all for the problem, and I think most people recognize that while the military has an important role, there are a lot of limitations—practical limitations, mission limitations.

I would like to know your feeling about giving arrest and search and seizure authority to the military that comes in direct contact with drug traffickers?

Admiral YOST. I think that there's only one military service that has been exempt from posse comitatus, or mostly exempt, and that's the United States Coast Guard. We have been involved in arrests and seizures for almost all of our career. We started under Alexander Hamilton as a force to seize smugglers, and we're still doing it.

To bring the Department of Defense and the four military services that serve under the Department of Defense into that is, I think, a mistake. I think it's a mistake to ask them to train their people to do seizures and arrests. It's a very intricate system, as we all know. Our military people throughout this country are highly trained. And to train the soldiers and sailors to do that has got to detract from their primary mission. As somebody who likes to sleep well at night and who knows from intelligence sources what's out there on the other side, I don't sleep as well at night if I think that the Department of Defense folks are focusing on my job when they ought to be focused on their job.

Mr. HUGHES. Let me ask you a practical consideration. What's your view of having, let's say, a command on board a frigate or some other ship, having that authority? What would be the practical implications for those that make the arrest, the appearance at trial, motions to suppress—which I presume the Coast Guard has to participate in—what would be the practical impacts on a ship?

Admiral YOST. Well, we tie up a lot of our people testifying and appearing in court and doing that sort of thing, and that's very debilitating. It will be equally as debilitating to the Navy. It may be more debilitating if they're deploying to the Persian Gulf or someplace because I have most of my ships homeported within the continental U.S.

So it will be debilitating. It's not a good thing to do.

Mr. HUGHES. Do you find that your commanding officer, as well as the boarding party, are often subpoenaed to court to testify, for instance, where the motion is to suppress the evidence?

Admiral YOST. We have been able to avoid the C.O. being subpoenaed most of the time. It happens; it does happen, and when it does, it is debilitating to the ship. The X.O. has to take over. We have been able to avoid that.

Mr. **Hughes**. I presume that when that occurs, the C.O. and the ship are basically in port?

Admiral **Yost**. Well, the X.O. can take it over, but that's not the way you want to send a ship in harm's way. It just isn't. I think it's a bad idea.

Mr. **Hughes**. So your testimony basically is that what we should be doing is looking for ways that we can enhance the sharing of intelligence; the diversion of flights that will provide good strategic or tactical intelligence for us where they can do that consistently with their training flights; the provision of equipment as needed—and certainly, that's an area where they've presumably already been helpful; personnel to operate that equipment where we don't have trained personnel to do that—those are the major areas where the military can provide support.

Admiral **Yost**. That's true. And I have said to the Joint Chiefs that if in reaction to whatever legislation comes out of this, that they send us so much sophisticated equipment that they feel that some of our people aren't trained to the degree of knowing how to use it most effectively, I would welcome some of their mid-grade officers on watch in the operations centers, an air warfare guy who knows the E–3 air war problem like the inside of his flight suit, being on watch right with our Coast Guard people. That kind of thing. We can do that. There is no sophistication that exists in military weapons systems that either we can't manage or operate, either by ourselves or with their help. So they ought not to be put in the execution or planning areas.

Mr. **Hughes**. Well, Admiral, I share all those concerns.

I have another concern. It seems to me that we always look upon that as an excuse not to fund the law enforcement agencies sufficiently. We look upon that as a reason not to provide the resources to the agencies that, in fact, are trained to do it, who can do it in a much more cost-effective fashion. It ends up costing us a great deal more, not to mention that perhaps it compromises the mission.

Let me just ask one additional line of questions quickly.

We have not yet seriously addressed the reduction in force that's been necessary. We've reduced the drug interdiction program by 55 percent. To implement that you've had to take some drastic steps, I presume. I understand we have cutters that are laid up, that are only out 2 or 3 days a week when they should be out 10 days.

Can you tell me just how you implemented that to stay within your budget? What have you had to do with your men and equipment to try to stay within your budget?

Admiral **Yost**. First let me say, sir, that what we did is fully dependent on our faith that we're going to get $60 million reprogrammed. If we don't get that, what I've done is less than half enough. We took the $103 million that we were short; we closed $43 million worth of Coast Guard stations, some of them in your own State, sir, as you well know, such as Shark River. After closing those $43 million worth of stations, the President asked to reprogram $60 million. That made up the $103 million. The problem was that in closing the $43 million worth of stations, I couldn't get those closed and the people off the payroll until the year was more than half over, so I couldn't find the $43 million savings. I only saved $7 million by closing $43 million worth of stations. The delta, which is about $36 million, I had to save now, this year. I looked at what I could save this year. There were only three things. I could quit buying fuel; I could quit buying spare parts, and I could quit maintaining my ships and stations. So I did all three of those things equally, and that caused me to tie up 55 percent of my ships, to ground 55 percent of my aircraft, and to stop buying spare parts and to stop fixing roofs on all my lifeboat stations.

Mr. HUGHES. What does that translate into? Does that mean that we have mid-endurance and high-endurance cutters that are laid up most of the week?

Admiral YOST. That means that the taxpayer has paid a high price for high-endurance cutters and sophisticated airplanes; they've trained the young men and women to run them, and they're now paying their salaries. And those ships and aircraft aren't operating.

Mr. HUGHES. So can you tell us, for instance, how many high-endurance and mid-endurance cutters we have tied up, how many aircraft are grounded right now? Can you give us some specifics on what we've had to do to our equipment to try to stay within the budget constraints?

Admiral YOST. Yes. I think that I can perhaps, but not in a direct way because I don't have those exact figures on a snapshot of what's tied up today.

I have 12 high-endurance cutters. For a high-endurance cutter, I have them at sea 180 days per year, away from their homeport, at sea. I now only have them at sea 45 percent of that; 45 percent of 180 must be about 80 days or so. So I'm getting 80 days out of that high-endurance cutter instead of 180 days.

For my medium-endurance cutters, I have them at sea for about 180 days; now I'm getting 80 days instead of 180 days. And the rest of that 100 days that I'm losing, the young men and women are sitting alongside the dock, and they're very, very frustrated. They don't feel like they're giving the taxpayer the honest dollar that the Coast Guard has always given the taxpayer because they are sitting there using money instead of operating.

Mr. HUGHES. Is that the same with your aircraft?

Admiral YOST. With aircraft, I get 700 to 800 hours a year for each aircraft. Now, for those aircraft, I'm only getting 45 percent of that, which must be 310 hours or so. It's a disaster. It's really a disaster.

Mr. HUGHES. If you don't see a reprogramming of the $60 million, I presume that we'll have another draconian cut.

Admiral YOST. What will happen if I don't get the $60 million is that I will keep on that money-saving incline that I'm on now that will save $60 million this year if I continue at 55 percent reduction. But what it means is that the $60 million won't be in my base, and it means that I've got to cut another $60 million of base to accommodate it in the out years. That's another $60 million worth of Coast Guard stations. As I said, I've got to do it this summer so that I get them off the rolls by the beginning of the fiscal year. Otherwise, next fiscal year I'll be in the same spot I was in this fiscal year. I couldn't get them off the payroll quickly enough to save money, so I've got to cut patrols again to bridge over.

Mr. HUGHES. I understand.

Admiral YOST. It's complex, but it's also insidious.

Mr. HUGHES. Well, it's not only complex. It's stupid and it's devastating.

Admiral YOST. Yes.

Mr. HUGHES. Thank you, Mr. Chairman. I know my time has expired.

Thank you, Admiral.

Mr. HUTTO. Thank you, Mr. Hughes.

Admiral, getting back to the effort to thrust the military further into the drug interdiction effort, I believe that it was the idea of the sponsors of the amendments in the House and the Senate to have a concentrated knockout blow, if you will, to seal the borders. Are you saying that that's impossible to do, that the Coast Guard should continue with the knowledge that you have, with the power of arrest that you have, to lead this effort? And if you could get the resources to do it, that you could interdict a lot more drugs than are being interdicted now? Could you do an effective job of sealing the borders?

Admiral YOST. I don't think anybody could do an effective job of sealing the borders. I once said to Vice President Bush that I despaired of being able to seal the borders of this country, and he asked me why. I was then the Commander of the Atlantic Area. I said, because I don't think there are enough assets in this country's inventory to do it. And even if there are, we as an American people aren't willing to spend that kind of money to seal the border.

Well, maybe I was wrong. Maybe we are willing to spend the $2 billion, that I hear bandied around, but even if we spend the $2 billion there still aren't enough tactical aircraft in the Air Force's inventory, enough E-2C's in the Navy's inventory, enough ships in the inventory of either the Coast Guard or the Navy to seal the borders. We will never correct a demand problem by shutting the supply down 100 percent. As long as that high demand is there, the supply will continue to be there to some extent. We cannot seal the borders of this country.

We had a good operation—it wasn't my operation—called "Blast Furnace" in Bolivia last year. The Congress has had a report on that, I believe, at the classified level. The Armed Forces of the Department of Defense went into Bolivia, and they did a superb job of knocking out a large number of laboratories. What little intelligence I've seen on it showed that many of those laboratories have now been reconstituted.

In order to keep a laboratory out, I think you've got to have a man on the ground with a bayonet controlling the territory. You can't knock out the production in other countries permanently without those other countries fully cooperating, and you can't seal the borders of the United States, no matter how hard you try.

Mr. HUTTO. It appears that there is a strong possibility that the Pentagon will be given the long-range surveillance mission since this provision is in both the House and Senate defense authorization bills. If Defense is assigned that mission, how will the Customs/Coast Guard C3I facility tie in with their facility at Tyndall Air Force Base?

Admiral YOST. Well, the C3I facility being built at the Coast Guard Communications Station at Miami, using money appropriated to Customs and jointly manned by the Coast Guard and Customs, is about another six to nine months from being fully on line. Once it is fully on line, if it operates according to the way it was designed and bid, it will be a superb command center and, in actuality, will be superior to Tyndall. And I get that from the commanding officer at the Air Force——

Mr. HUTTO. One of the things that we were discussing a couple of years ago on that, though, was the cost. At what cost will this be?

Admiral YOST. Well, the cost was high. I think we're probably behind schedule and over budget on it, but that's being managed by the Customs Service, and I don't know that for sure.

The cost was high to put it in, but I think that's a sunk cost at this point and it is in fact going in. There were other landline costs and other things associated with it. But the Commanding General at Tyndall has said that he feels that that is a very capable system, and he has applauded it. I'm waiting for it to come on and work.

Mr. HUTTO. Yes, and I know that you and I—all of us—had concerns about that before, because they tie it in with a SOC out at March Air Force Base in the southwest, so I couldn't see why they didn't do that in this area.

I've talked with GAO, OMB, other drug enforcement agencies and your staff, and no one has any quantifiable measures of effectiveness in this fight. This is frustrating. I know it's frustrating to you and all of us.

What are the problems in establishing these measures? How can we quantify what you're doing in the drug war?

Admiral YOST. Well, we've all been searching for effective measurement tools. We haven't found any. We still use what we have, which is tonnage seized, arrests, boats seized, etc. None of us think that that's a very good indication. The price on the street seems to be as good an indication as we have. If the price is down in cocaine, if that's a good indication, it means we are flooded with cocaine, and I think that's true.

If the price is up in marijuana, it means that we are closing off the supply of marijuana somewhat. We've got a domestic crop now that is 19 percent of total U.S. consumption.

So we don't have a good measurement. We never have had, and everyone who comes into it wants a better measurement, but we haven't been able to come up with it.

Mr. HUTTO. But I'm assuming that when you get together with other agencies that you all talk about how to measure that, because there is duplication. Customs may claim seizure, and the Coast Guard the same seizure——

Admiral YOST. Well, sometimes those statistics can get muddled. We've worked those out on the Drug Policy Board; I think we're doing fairly well at that now. But just yesterday, Mr. Chairman, I chaired the Interdiction Committee, which is jointly chaired by the Commissioner of Customs and myself. He was out of town, and I chaired it by myself.

One of the things that came up at that meeting was a proposal for about a $500,000 study effort on measures of effectiveness. At that meeting yesterday we authorized an invitation for bids, to have a source outside of the Government come in and see if they can develop better measures of effectiveness for us. So we're very much concerned with it.

Mr. HUTTO. I believe the Coast Guard had previously had a study on that, did you not?

Admiral YOST. We have had studies on it. We haven't ever found anything that we're very comfortable with, that I feel like coming up here and saying, "The price will tell you what the situation is." I don't feel good about that. So again, we—all the agencies involved in interdiction—are giving it another shot, FBI, Coast Guard, DEA, Customs, Department of Defense, sitting around the table. We are just frustrated that we don't have a better measure of our effectiveness, to find out what the threat and the problem really are and how effective we are against them. So we are again trying a shot.

You asked me before about the Department of Defense having the long-range surveillance mission because that's in both bills. I see that's in both bills. I'm very concerned that that's in both bills. I would hope that somehow the summit that the President has called would come into action here, and between that summit and conferencing those bills we would get something more reasonable than I feel is in either bill, particularly in turning long-range surveillance over to the Department of Defense.

Again, long-range surveillance is a complex issue. We've been in it for years and years and years. We're perfectly capable—more capable at this point—than Defense is in doing that job. That isn't to say that they can't learn it. They will learn it, but it costs the security of this Nation, in my opinion.

Mr. HUTTO. All right. Thank you, Admiral.

One more before I go to Mr. Hochbrueckner. How does the Coast Guard currently determine which operations are most successful and where best to allocate your limited resources?

Admiral YOST. I often talk about intelligence, sir. We say in my business that you save so much money if you have good intelligence because then you know where the threat is, and you know where to move against the threat.

I mentioned as recently as yesterday to a Capstone class of newly made flag officers from all services—I met with them for an hour, and this is the first question they asked me: "How good is your intelligence?" And I said to them, "You know, I spent over a year in combat in Vietnam, and during that year in combat I can count the times on one hand that I ever had intelligence that allowed me to intercept a Vietcong platoon, to intercept a Vietcong company, where I knew where somebody was going to be tomorrow morning or the day after. I had reams of intelligence to tell me where a Vietcong company had been yesterday, where a platoon had had a prisoner in a tiger cage 2 days ago, what village was used a week ago to stage out of. And it's almost the same in drug interdiction. Seldom do you get tactical intelligence that tells you where to go to intercept a plane or an aircraft. I would say that our intelligence here is better than our intelligence in Vietnam, and we get about

10 percent of our total seizures based purely on intelligence. But the other 90 percent come from random patrols.

So the way we allocate our resources is, first, on an intelligence estimate of the threat, but it isn't always very good. Right now I don't know how much is coming in containers and how much is coming by air, and yet I'm trying to spend a massive amount of money in getting up E-2C's and E-3's and Falcons with $7 million radars and a complex command and control center in Miami to work the air problem because I think we have most of it coming in by air. But I keep getting this feeling that maybe a lot of it is starting to come in by containers; and if it is coming in by containers, how do I counter that? If I take the air war down and focus on containers, then it will surely come in by air.

So it seems like if we do one thing, they do something else, but we don't dare quit doing the thing we just did or they'll go back to that mode. It's very complex and it's cost-intensive, as you know.

Mr. HUTTO. Thank you.

I now recognize Mr. Hochbrueckner for 5 minutes.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman.

I recognize that this is a subcommittee meeting on drug interdiction in general. I would like to confine myself to an area that I have specifically worked on.

As you know, in your recent visit to Long Island you had the opportunity to see what was going on with boating safety, but also the opportunity to see a Grumann E-2C aircraft live, and to "kick the tires," as we did together, along with our colleague from Virginia. So I'd like to make a general statement about that particular area to sort of tie the total program together as we're trying to put it together, and then ask Admiral Yost for his opinion about it.

The present program, as I think everyone knows, is that the Coast Guard since 1986 has had two E-2C aircraft, and certainly these aircraft—which are long-range radar aircraft that the Navy uses as the eyes of the fleet; in fact, we don't send any of our 15 aircraft carriers out without four E-2C's aboard because they are the eyes of the fleet. Because of the capabilities of this long-range radar they have been used very effectively by the Coast Guard in the last 2 years to, in fact, interdict a substantial number of aircraft, vessels, boats, and small aircraft trying to bring drugs into the east coast. And certainly, substantial amounts of cocaine and marijuana have been seized, and we're very proud and pleased with what the Coast Guard has been able to do with the two E-2C's that they have had available to them. And, or course, with the long-range radar on those aircraft you can see any small boat or aircraft that is moving, and that is very important.

As you also know, Admiral, in the budget that the House has approved, funds have been put in there for the purpose of purchasing three additional E-2C aircraft; but, of course, since your budget is separate from the Defense budget, there was a little swizzle in the sense that the three new E-2C's would be purchased and delivered to the Navy, and they in turn would hand over three of the older E-2C's for your use which, from our perspective, is quite appropriate and adequate in light of the fact that your avionics needs are less than that required for an E-2C on an aircraft carrier.

So if we are successful in the budget this year, you will not only have the two E-2C's that have been yours for the last two years, but you will also then receive three additional E-2C's via the budget process.

I'd like to say a couple words about a bill that I just submitted on June 8, H.R. 4770, which in essence would direct the Navy to provide three additional E-2C's on loan. These would be aircraft that would be made available by the Navy to the Coast Guard on a loan basis. Essentially, these are aircraft that have wing cracks that cannot be used on the aircraft carrier but can be used out of normal fields. And as you know, the Navy has quite a few of these aircraft right now that are in the process of having their wings repaired. It will be several years—in fact, I think, into the early 1990's—before all of the E-2C aircraft will have their wings repaired.

As you know, landing on an aircraft carrier is a very stressful event, and consequently there are to date, as I understand it, about 26 E-2C's that would be available that you could use on a rotating basis provided, of course, that the O&M money is there to support them.

As you also know, in the program that we're promoting as part of this budget to procure these three new E-2C's, there is additional operating and maintenance funds for the Coast Guard so that you'll be able to properly operate the two E-2C's you already have, the three that we hope will be provided to you via the budget process this year. And also, of course, it is hopeful that the money would be there from that pot to support the three E-2C's, should my bill be acceptable.

And so, Mr. Chairman, what I would like to do is to ask that the subcommittee, when it reviews legislation relative to the overall drug interdiction program, do consider the addition of my bill, H.R. 4770, because the combination of the two E-2C's that already exist, the three that hopefully will be provided via this year's budget, plus the three that would be available through this bill would then give the Coast Guard a complement of eight E-2C aircraft. And as I recall from previous testimony from Admiral Yost himself, with six to eight E-2C's we could make a substantial dent in interdicting drug flow into the east coast of the United States via small boats and planes.

So I commend the Coast Guard for the great success you have had with the limited assets that were made available to you, and I feel very strongly that if we can make this eight-aircraft combination package a reality, that the Coast Guard could, in fact, strike a major blow in terms of interdicting drug flow into the east coast.

So with that I complete my statement. I'd just like to ask the Admiral, do you agree with this program as we've put it together, and do you think there's anything we can do to make it better? If you had eight E-2C's and the money to operate them, do you think you could make this major impact?

Admiral YOST. Well, eight E-2C's would be a very powerful surveillance system, and I fully agree with you, Mr. Hochbrueckner, that would give us a capability far, far beyond what we have now.

As you have pointed out, we do have wing problems with E-2C's. The two E-2C's that I'm currently operating will be down hard in mid-August until we get the fix on those outer wing panels. We've had the inner wing panels done; now we've got outer wing panel problems, and we share this with the U.S. Navy, so we're not the Lone Ranger in this. We're working very hard in this with the Navy to correct these problems.

You have also mentioned that these two aircraft that we have have been very effective. They've seized 13 aircraft; they've seized 4 vessels; they've seized almost a ton of cocaine and a couple of tons of marijuana and have been responsible for 31 arrests. The problem with operating two E-2C's is that they are a short-legged aircraft. They are about a 5-hour or 6-hour aircraft. We are deploying them from Norfolk down south, and then deploying them for 1 or 2 weeks at a time down there, averaging about 8.3 days per deployment.

Once we deploy them, I think the bad guys are writing a book on us; that is, when those aircraft show up at Roosevelt Roads or Clearwater or Key West or wherever we're going to deploy them, I think some little guy with a Spanish accent picks up the phone and talks Spanish to somebody in Colombia and he says, basically, "The E-2C's are here." Hey, they know that they're only going to be there for 8 or 10 days at a time. They're going to stop until the E-2C goes back to Norfolk and licks his wounds, because we've only got two of them. I can only keep two E-2C's; I'm getting 1,000 hours a year from each of them. That's 2,000 hours a year out of 24 hours times 365 days available. They are bypassing me. They are flying around me. An E-2C only has a 150-mile radius in the air, so when I put up one E-2C to cover the whole Caribbean about 2 percent of the time, it isn't hard if you're a drug smuggler to fly around me or wait until I go back to Norfolk and then fly through me.

So yes, more E-2C's would be very, very helpful, but they are expensive.

Now let me talk about the money, $120 million for three E-2C's. The Navy would buy those E-2C's and give me three old ones. I don't have any problem with that. I would like to see the new ones on the carriers; that's where this Nation needs them. I can use the old ones. But if the budget committees and the appropriations committees look at the $120 million as a part of my AC&I Program, and I need that money to put roofs on air stations and docks at search and rescue stations and to maintain the rest of my plant—but they say, "Well, they're getting $120 million." I'm not getting $120 million. I am getting three used E-2C's, and I still need my AC&I budget to do those things that I'm committed to do in AC&I. So I just ask the committees, when they conference, to be sure that what's left in my AC&I account is something that I can manage the Coast Guard with. That's my problem.

Mr. **Hochbrueckner**. Let me just respond by saying that thanks to the amendment provided by Congressman Bennett, which is the Bennett-Hochbrueckner amendment, $600 million was taken from the SDI Program and a chunk of that was switched over for this purpose. So it certainly is not the intent to take the money from one pocket and put it in the other.

Mr. HUTTO. If the gentleman would yield, it's not that intent, but the Appropriations Committee has ways of doing things and, in fact, has already kind of divided the pie.

So those things never end up like you expect them to.

Mr. HOCHBRUECKNER. Well, you must admit, our intentions were pure.

Mr. HUTTO. Absolutely. I agree with you 100 percent.

The Subcommittee will stand in recess briefly while we go vote.

[Recess.]

Mr. HUTTO. What about the problems with the Falcon aircraft?

Admiral YOST. We have had major problems with the engine. It was a brandnew engine. It had never flown before, basically. It took a lot of time to get the bugs out of it. We are now, in my opinion, over the hump. It has cost us a bundle, but we are over the hump. It would cost us ten times that bundle if we were to say, "Well, let's throw this aircraft away and go out and procure another aircraft."

Mr. HUTTO. OK. What you say is that the engine problems seem to be over, that the engine is working well now. Is that the update?

Admiral YOST. No, the news isn't quite that good. It's close. We have the engine problem in hand. It's going to take a lot of money, a lot of overhauls, a lot of spare parts to keep up with that airplane. We're not going to get the hours out of it between overhauls that we had planned to get, and it's going to be an expensive airplane to continue to maintain.

Mr. HUTTO. Is the contractor providing any of the funding?

Admiral YOST. There is no longer any warranty of parts; we're beyond that. So it's an expensive thing, and the contractor is being cooperative, although he has been encouraged to be cooperative by some of the other committees in the Congress who have gotten involved in this thing. Some of the Members have visited his plant and talked to him.

Mr. HUTTO. But you do believe, as you say, that you are over the hump, and that it is going to be an effective aircraft?

Admiral YOST. Yes. It already is, and we're using it effectively. It's just costing us a bundle to keep it flying. I am committed to the aircraft that we put $7 million radars on—I am committed to keeping those airplanes flying by, if I have to, shorting spare parts to the rest of the fleet.

Mr. HUTTO. OK.

Where are we on the Falcon purchase at this point? How many do we have and how many are still to come?

Admiral YOST. Well, the purchase is complete——

Mr. HUTTO. You've got about 39 or something like that? How many?

Admiral YOST. It's 41 aircraft. We've never lost an aircraft.

Mr. HUTTO. So they've all been purchased and you're fitting how many of them with the radar?

Admiral YOST. Nine of them. We are fitting nine with the equipment: eight operational and one spare.

Mr. HUTTO. OK.

Was the information on the Nightstalker available to the English subcommittee at the time of its hearings and subsequent report on the Falcon?

Admiral YOST. Yes. I testified extensively to that committee. The committee was very, very concerned that it wasn't the correct aircraft. I maintained stoutly that it was, in fact, the correct aircraft and the only aircraft available, and that I would maintain those eight that we did fly and get the hours out of them.

But the English committee went into it. They published a report that is one of the most divisive reports that I've seen come out of Congress recently.

Mr. HUTTO. Well, I couldn't quite understand that. I know that Congressman English had expressed a lot of concerns about the Falcon. There was a trip down to Miami to see it operate by some of his staff members, and they came back indicating that it was doing its job and could do it. As a matter of fact, the Congressman advised me that it seemed to be working well. So I was surprised at the report.

Admiral YOST. Well, I was too, sir.

Mr. HUTTO. OK. How about the Dolphins? Have their engine problems been solved? What is their current down time?

Admiral YOST. We have like problems with the Dolphin helicopter. It was, again, procured competitively through the Federal procurement regulations. We ended up with a French airframe and an American engine, with two different companies—not the same companies, not the French nor the American—that provided us the HU-25.

We are buying 90 or 95 of those, in that vicinity. We don't have all of them delivered yet. We still have a growth problem or a maturing problem in that engine, and it's costing us some money to get through that growth period. We're convinced that it will be a good aircraft, but again, it would lead any honest man to question whether that was the right aircraft, now that we've had the experience with it. But we've gotten the aircraft; the contract is in; we've gotten delivery; we've licked some of the problems, and we hope to lick the rest of the problems. That's the airplane we have. It's a good airplane, a beautiful airplane, when it's flying.

Mr. HUTTO. OK.

How far away are we from solving the problems with the Dolphin?

Admiral YOST. I think that in both of those aircraft, 10 years from now we're going to be sitting here talking about some of the same problems we're talking about now. These are long-term problems. We have very few of these aircraft. When we MIPR onto a military contract, the Air Force or the Army or somebody else is flying literally hundreds of airplanes; and when you mature a new airplane, if you're flying hundreds, you get the problem solved a lot faster than if you're flying tens because you get the experience much quicker.

So we've got very few aircraft, and we're flying some of the only ones in the world that are configured with these engines. It's going to take a number of years before we can say that this is a mature engine on which we are now having acceptable maintenance intervals.

Mr. HUTTO. What would you estimate would be the length of time before you get up to 71 percent, which I believe is your goal for operations?

Admiral YOST. Let me provide that for the record, unless you care to answer that, Captain Crosby.

Captain Crosby, on my right, is my acting Chief of Operations. I'm not sure that we could estimate when we would be up to 71 percent, but we'll provide that for the record if I may, Mr. Chairman.

Mr. HUTTO. All right, sir. That's fine.

[The following was submitted:]

PROGRESS OF THE HH-65A DOLPHIN HELICOPTER

The engine on the HH-65A Dolphin helicopter is not a mature system and engineering efforts are still underway to resolve technical problems. Engine reliability determines present aircraft availability rates. Due to the higher engine maintenance rates, the engine operating costs are running 3 to 4 times what was originally expected. Aircraft availability is not expected to increase to the 71 percent level within the next few days until long term engineering improvements are incorporated. If identified corrective actions are funded and implemented in a timely fashion, and if spare parts are adequately funded and provisioned, HH-65A availability will gradually improve. The ability of the Coast Guard to identify corrective actions and to fund improvements and provisioning is directly related to program commitment and support of the engine manufacturer, Textron Lycoming, in the near future.

Mr. HUTTO. Is it true, Admiral, that your E-2C's on loan from the Navy will be down for the month of August to repair cracked wing problems? How old were these planes when you got them, and when were these problems discovered? Should they be replaced? And if so, with what?

Admiral YOST. The whole fleet had problems at the time we got them, so we weren't surprised and neither was the Navy. They gave us two aircraft. Both of them had wing problems, as do most if not all of the fleet. They were older aircraft.

The Navy told us when they gave us the airplanes that they would fix the wings, and they have taken the responsibility for the wings. That hasn't cost us any money. They've been very good about that, and they've put our aircraft as close to the head of the line as they could in accordance with national security needs, so I have no quarrel with the aircraft or the Navy's handling of it.

The fact of the matter, however, is that both of our aircraft will be down hard in August. We fixed the mid-wing cracks, and now we find that we have outer wing cracks. Those cracks—the Navy's fleet has the same thing; it's a new discovery on all the fleet. We run out of flight time in August. Now, we petitioned NAVAIR to give us another 470 hours flight time on these aircraft because we're not using them on carriers, and they receive a lot lighter use. On their initial look, NAVAIR has declined to do that; and if they think they're not safe, I don't want to fly them. They're the experts.

Mr. HUTTO. All right.

Would there be any replacement during the month of August, which I understand is a pretty important month as far as drug trafficking is concerned?

Admiral YOST. Well, it isn't just the month of August.

Mr. HUTTO. How long will they be down?

Admiral YOST. Until there is a fix found, and a fix—as I understand it, NAVAIR has not identified or selected a particular fix for the whole fleet. They're working feverishly on it. I don't know whether they're going to be down for a month or whether they're going to be down for 6 months, but it's a major problem with the whole fleet of E-2C's. It's affecting our carriers as well as the drug problem.

Mr. HUTTO. What has been your reliance on the E-2C's? What's going to happen during this down time?

Admiral YOST. Well, without the E-2C and without the ability of the Navy—we get E-2C time from the Navy as well—I would guess that Admiral Kelso is going to be reluctant to give me a lot of E-2C time when his whole fleet is down as well. So I think the Navy and Coast Guard E-2C's are going to be very hard to come by from August on. We will have to rely on the E-3 time that we can get from the Air Force, and that's very expensive time. I think it goes $9,000 an hour or something, and there's not a lot of it available. We'll use our balloons; we'll do everything we can, but we've got a big hole in our defenses starting in August.

Mr. HUTTO. Well, communications is really the name of the game. What about your communications equipment? Are you better able to communicate with other law enforcement agencies now? Have there been any improvements in this area?

Admiral YOST. There was money provided in the Anti-Drug Abuse Act of 1986. I think there was somewhere around $10 million. We have obligated all of it; almost half of the equipment has been delivered. It has improved our secure communications. It has improved our interoperability with Customs Service as well as with the other armed services.

So yes, we are well on the way to making major improvements in communications. In another 6 to 8 months we're going to have most of that in place.

It was $11 million to be exact, Mr. Chairman, in the "secure comms" to provide secure communications. And I could give you for the record, or I could read to you, what that was for. I could do that very quickly, if you like.

Mr. HUTTO. All right, sir.

Admiral YOST. Well, $5 million went to VHF radios on our cutters, boats, and shore stations. That was awarded the third quarter and installation will begin in the fourth quarter of this year; it is going to be completed by the second quarter of fiscal year 1990, and that's going to be a major help to us.

And $1.5 million of it went to secure voice communications for aircraft, and that will be awarded in the fourth quarter of this year and the installation will be completed on our helicopters by December of this year. That's the first time our helicopters will have secure voice, which is amazing but true. In the drug war, if you don't have secure voice you sure tip your hand.

Also, $3.5 million went to the Coast Guard Communications Network upgrade, and that award is expected in the fourth quarter of 1989. That provides for the changeout of the VHF equipment at all of our high level sites in the 7th and 8th Districts and in the 11th District in the Pacific, and that's where the big drug operations are. So that gives our communications high level sites the secure encrypted comms between our groups and our boats while underway. We've never had that before, and that's amazing, that our boats on patrol don't have secure comms with their group commanders. They now will because of this money.

Then there was another $500,000 in communications stations upgrades and $500,000 in satellite comms. Three satellite systems were ordered. And in addition to that, $1 million went to the Bahamas Task Force, where we put in secure communications on—I think it's the third floor of the American Embassy, where we have our operations center for the whole Bahamas operation. That was critical. That's in and that's working; for the first time we've got secure comms there.

Mr. HUTTO. All right, sir. So how far along are we? How much further do we need to go in the communications area? What more needs to be done now, if you had to rate it from one to ten or put a percentage on it?

Admiral YOST. All right. I would give us somewhere—when all of this equipment is in place, on a scale of 1 to 10 we're going to be somewhere around a 7 or an 8. Our major delinquencies will be in interoperable communications within the armed services, amongst all of the armed services, and with the law enforcement agencies like Customs and DEA.

That's a long-term problem where these civilian law enforcement agencies have in fact bought equipment over the years, as have we, without any real thought of making them compatible and interoperable. So we're now working on being able to talk not only between my groups and my boats, but from my boat to a Customs boat without having to go back through our command headquarters and talk to each other at command headquarters and then back out to the other man's boat.

So we haven't gotten that solved yet, but we're working on it.

Mr. HUTTO. OK. Very good, Admiral.

I want to thank you and Captain Barry and Captain Crosby and Captain Allington for being with us this morning.

We are going to have to go vote again, and we're going to have to take a break for lunch. It's my understanding that you're prepared to be back here at 1:30?

Admiral YOST. At your pleasure, sir.

Mr. HUTTO. All right. Thank you very much.

The Subcommittee will stand in recess until 1:30.

[Whereupon, at 11:45 a.m., the Subcommittee recessed, to reconvene at 1:30 p.m. the same day.]

AFTERNOON SESSION

Mr. HUTTO. The Subcommittee will resume its sitting.

Admiral, I trust you had a good lunch and you're ready to go again?

Admiral YOST. Yes, thank you.

Mr. HUTTO. I'd like to start out by expressing my concern about the potential impact of the Navy's announcement that they are decommissioning 16 of their frigates, many of which carried the Coast Guard law enforcement detachments. I have expressed my concerns to Secretary of the Navy Ball.

Have you received any kind of assurances from the Navy that ships will be available for the LEDET's? I know that this came through the defense authorization bill a few years ago, and it was the Congress' idea to do that; but unless we have some ships to put them on, it looks like the program may be in trouble.

What's the status?

Admiral YOST. Well, I think it's even more serious than that, sir. I haven't received any assurances; quite the contrary. The Navy has told me that this could, and probably adversely would affect their ability to provide ship days to the Coast Guard.

Let me explain how the Navy provides ship days to us. They do that in two categories: one, a dedicated ship that goes down and operates for us in the Caribbean for an extended period of time, usually a matter of several days, or even a week or two; and the second category, ships of opportunity that they have transiting the area on which they offer to carry LEDETs while they are transiting the area.

Now, by far the most important part of those ship days are those dedicated ship days, those days when they're down on drug patrol under operational control of the Coast Guard and actively patrolling for drugs. A disproportionate amount of FFG time is spent in the first category, the dedicated time.

So the concern in losing the FFG's is that the Navy, because of their own OPTEMPO problems, will be able to dedicate less ship days to the Coast Guard than they have in the past.

I think the ships of opportunity will not decrease by much, and by far they are certainly the less effective of the two methods of giving us ship days.

Mr. HUTTO. Where do most of the LEDETs operate?

Admiral YOST. Well, the dedicated time is normally in the deep Caribbean, down off the Colombian coast, passing down past Jamaica, Cuba, down off the Colombia coast, and then maybe up and touch out in the eastern islands. But it's that entire Caribbean area; and the LEDET's, of course, are on those dedicated ships. It's a full time operation, usually with an oiler. In fact, we've gotten 2,100 ship days from an oiler this past year. And, of course, there are no LEDET's on an oiler, but it's there. It's critical to keeping the ships operational down there.

So that's where they operate. The ships that pass through can be going anyplace. They can be going back and forth to Guantanamo Bay for training or any other naval mission, and the Navy informs us of those ships. Those that we think we can use, we put a LEDET aboard. But they are far less effective, obviously.

Mr. HUTTO. Now, where do the LEDET's come from that go aboard these transiting ships?

Admiral YOST. All of the LEDET's are based in the Southeast United States, in Florida. They are formed into teams and detachments, and the teams and detachments—when they don't have people assigned at sea they use members of these teams to augment the southeast U.S. lifeboat stations and bases to do drug interdiction and to support drug interdiction from those shore bases.

Mr. HUTTO. OPBAT is one of the most extensive and expensive operations currently underway in the drug war. Admiral Yost, please talk a bit about the Bahamas and OPBAT. Could you tell us what is happening there and why so many resources are committed to this area?

Admiral YOST. The Bahamas are geographically on the supply lines, the sea and air lanes, from the source countries in the Caribbean to the target country, the United States. Starting in the early 1980's, as we began to put pressure on the drug smuggler, he found it easier to transship in the Bahamas; that is, to go into the Bahamas and either land his airplane or ship there, unload the contraband, and then reship it in fast boats, usually owned by U.S. citizens, into the United States across the 40- to 60-mile spaces there. So the Bahamas are absolutely critical to us.

In response to that, along with the considerable cooperation of the Bahamian Government, we have formed, under the leadership of the U.S. Ambassador to the Bahamas, a Bahamian task force. That task force has an operations center based in the American Embassy that we've just provided communications to with part of the 1986 ADAA money. That task force, then, is targeted against the smuggler who is trying to do air drops or land aircraft, or even bring boats into the Bahamas with drugs. It has been very effective. We have three dedicated helicopters and several men and women who are assigned to the operations center.

DEA is in charge of OPBAT. They provide the guts and backbone of it, with the support of the U.S. Ambassador. Customs has some people there, etc.

So that's how it works, under the DEA's operation and control and under the auspices of the U.S. Ambassador.

Mr. HUTTO. Last Friday I received a letter from the Attorney General of the Bahamas. He outlined several proposals, some of which make good sense to me. I plan to share his proposal with the Speaker and with my colleagues on the Armed Services Committee.

Have you had an opportunity to review these proposals, and could you comment on them?

Admiral YOST. Yes. I received what I think is the same proposal from Mr. Adderley of the Bahamas. That proposal was delivered in a pouch from the U.S. Ambassador to our Government. The State Department has the lead on it, and they will prepare the response.

Now, we haven't talked that over extensively yet in the U.S. Government. I think that it has some good ideas and some ideas that we ought to follow up. It also has some ideas that aren't so good, and those include the use of decommissioned ships that are old—that's why we are decommissioning them; when we decommission those ships, the crews go to man new ships, so there aren't any crews for those ships. When ships are decommissioned they are in poor shape. It would be very difficult to use those kinds of ships. But the idea to form a blockade for a finite period of time around the Bahamas is a very forthcoming idea from the Bahamian Government, I think, and it's one that we ought to look at very seriously and measure the effectiveness of our forces down off the Colombian coast, which is the major source—the effectiveness of those ships off the Colombian coast vice the effectiveness of those same ships blockading the Bahamian coast. We need to take a hard look at that. Obviously we felt that down off Colombia is a better place to go, but I'll tell you, maintaining a fleet off the Bahamas—time and distance factors, supply tail and what have you—is a lot easier to do. So we'll take a good hard look at that.

Mr. HUTTO. I hope so, and it does make sense that a small place like the Bahamas could be relatively easy to blockade, whereas other places you couldn't.

Admiral YOST. Well, let me say that the Bahamas covers a great deal—it's an archipelago.

Mr. HUTTO. It does cover a lot of miles, although—I guess the locations where they ship in their things—are they spread out that much, though?

Admiral YOST. Well, there are a lot of little islands, a lot of little runways and what have you. But I agree with you, Mr. Chairman. It's an idea we ought to seriously look at, and we will.

Mr. HUTTO. OK.

The House Foreign Affairs Committee published a report outlining problems in cooperation and commitment from the Bahamian Government regarding drugs. Have you found this to be true? How have joint operations with the Bahamian Defense Forces been run?

Admiral YOST. Well, there is no country that's been more cooperative in joint operations than the Bahamian government. There has been no government more forthcoming in permitting our vessels to go into their territorial sea, to operate and arrest U.S. citizens in their territorial sea; and, with their Bahamian Defense Force, arrest Bahamian citizens in their territorial sea. There's been no country more forthcoming in giving us air rights to fly in and do drug interdiction in their territory.

So we have done a lot of joint operations with the Bahamian Defense Force, and they have been fully cooperative, more than cooperative. So I'd have to give them an A-plus in that.

Mr. HUTTO. I suppose if you ran them out of the Bahamas, the drug traffickers would go elsewhere.

What will happen to the equipment and facilities you have in the Bahamas should the drug trade shift to another primary location?

Admiral YOST. Well, basically we're putting down there the boat lift and the mobile basing facility. The concept of the mobile basing facility started out as a permanent basing facility down in Georgetown, bricks and mortar and barracks and docks and fuel depot and what have you. We gradually moved away from that, and we're now talking seriously about a mobile facility. We've put one down there, which is one of our older ships that goes down as a station ship, anchors in a protected harbor, and basically provides food, support, supply, and what have you for the patrol boats. When the threat moves, it can move; because when you do bricks and mortar at Georgetown, when the threat moves away from Georgetown, the bricks and mortar and barracks and fuel depot don't move with it. But when it's on a ship, it will move with it.

So I don't see a danger of the Bahamas becoming less than a central player in drug interdiction into the United States, but it's very likely that one island in the Bahamas will be hot today, and two weeks from now there will be nothing going on there. So it makes sense to stay mobile if you can.

I think that anything we put in the Bahamas we ought to look at to see if it can support things in a lot of locations in the Bahamas. The mobility is important. The boat lift can go anyplace because the boat lift is designed to repair the Bahamian Defense Force patrol boats. They are based in Nassau; that's their major base. That's where the boat lift needs to be. That's where their engineering base is, and it can do some work on our boats if we get a line in the screw or something while we're operating there.

Mr. HUTTO. In the past there's been confusion over the money appropriated to the United States-Bahamas drug task force because it is not an agency in itself. Some of the bills before this committee would authorize additional funds for the task force. Should there be provisions indicating to whom these funds would be allocated? Who does Coast Guard think should be responsible for this, State? NDPB? What?

Admiral YOST. It's only that I'm a little sensitive to this because the last appropriations for the Bahamian Defense Force went to the U.S. Customs Service; and in transferring some of those monies to me, I ended up on the front page of the Washington Post being accused of stealing $8 million. I testified to you, I never got a cent of it. We finally did get some of it in the Coast Guard, however, and with that we bought some helicopters for the Bahamas operation.

Now, our only concern here is that however these funds are appropriated, they are tagged to be allocated by the National Drug Policy Board so that we don't have two agencies, both belonging to the task force saying, "Well, I ought to get those funds," or, "I ought to get them," or one agency gets them and the other agency thinks they ought to have them.

Instead of trying to sort that out here I would suggest that Mr. Meese's—the Attorney General's—Drug Policy Board be tasked with allocating those funds, and then have him report back on how he's allocated them. Whose budget they go in isn't important if they can be moved around by the Drug Policy Board.

Mr. HUTTO. Speaking of Customs, I'm aware of some past problems with coordination and cooperation between Coast Guard and Customs in the Southeastern United States as well as at other levels of these agencies.

Would you describe your present working relationship with the Customs Service? Have things improved?

Admiral YOST. Things have improved markedly. The Drug Policy Board made a proposal to the President, and the President endorsed it—that the lead agency for interdiction be vested in the Interdiction Committee, of which Customs is the chair and I am the permanent deputy.

The Interdiction Committee, then, serving as the lead agency for drug interdiction, has the responsibility for executing the strategies, maritime, land, and air. That has taken a lot of the concern for turf out of the situation. Our cooperation is very good. I admire the Commissioner of Customs; I think that he's one of the most aggressive and effective Commissioners of Customs that we've had in this country, and he's certainly one of the main warriors in the drug war. He and I get along very well personally, officially, and professionally, and we chair this Interdiction Committee jointly. We chair—or command, our people do—the Air Communications and Control Center, C3I Center, jointly. His people will command it when it goes into commission until June 1989; in June 1989 my

Coast Guard officer will command it for 2 years, with his man as deputy. Then he will command it with my man as deputy for 2 years. So we've worked that out very well.

There is even less competition in the field. For the most part, they are getting along fine. There are issues that come up; there are issues that the Commissioner and I have to solve. There are issues that he and I have to shut the door and sit down together and resolve. But the point is that we are resolving them, and I don't think it's affecting the drug war in any adverse way. In fact, it's a positive thing.

Mr. HUTTO. OK.

This looks like a good time to take a break. As you can tell by the bells, we have to go vote, but we'll be back shortly, approximately 10 minutes.

The Subcommittee will stand in recess for a few minutes.

[Recess.]

Mr. HUTTO. The Subcommittee will come to order again.

Admiral, I will ask you to give us your views on provisions affecting the Coast Guard in each of the bills before us today, beginning with H.R. 4658. Would you please comment generally on the bill and indicate what kinds of things you might do with the money that it provides? And then the provisions of the other bills after that.

Admiral YOST. Well, the provisions of the bill, the first provision having to do with protection of Navy commanding officers on Navy vessels, we're fully in support of that. It's well written and we can fully support that.

The amendment to the Customs Forfeiture Fund—again, we can fully support that and think that it's a necessity.

The Maritime Drug Enforcement Act, having to do with U.S. citizens on foreign vessels—again, it closes a loophole in the law that we think is necessary and makes all kinds of sense.

The indemnification of Coast Guard members and employees—a necessary provision that is warmly and fully supported by the Coast Guard.

The amendments to Suits in Admiralty and Public Vessels Act—as presently drafted, it omits the words "act of war" and "act of war exception." This is a technicality, and we'd like to be able to work with your staff on that particular technicality.

Mr. HUTTO. All right, sir. I understand our staffs may be working on that already.

Admiral YOST. They are, and we support the thrust of the bill.

Now, the bill has in it $246 million in AC&I. If that $246 million was above and beyond the President's budget, which I think is the question—what would we do with it if we got it above the President's budget and our appropriations committees did not discount our own budget by the like amount. We would have a list that would run something like this: six new H-60's which we would use in the Bahamian task force operation to support the DEA and the U.S. Ambassador and the Bahamians in the Bahamas operation. We would suggest 10 more island class patrol boats; those are 110-foot patrol boats that are operating so well in the Southeast United States.

We would spend some of that in secure communications to further fill out the communications need that I spoke about to you previously.

We would move the Cape Canaveral Aerostat over to the Gulf Coast of Florida to better locate it for drug interdiction. That was taken up by the Interdiction Committee yesterday afternoon, thoroughly examined, and the decision was to move it over there. The cost of that move is about $9 million, and it's not in anybody's budget now but it critically needs to be done.

To existing assets, we would speed up the provision of forward-looking radars to our C-130's. We would use some of it to support this helicopter engine that I told you we were having plenty of problems with. We would support that engine and provide some improvements to give us a better operational availability of that helicopter.

We would provide some surface sensors for our Falcons. These aren't the eight or nine Falcons I've converted; this is the remainder of the fleet, with active-gated TV and AIREYE.

We'd put some permanent facilities for air interdiction in the southeast United States in order to support the E-2C's down there. Instead of having to support them in Norfolk and fly them down there, we'd base them down there, probably in St. Augustine. And we would probably provide some facilities at Miami for additional Falcons to be based there, particularly these nine that I've talked about in support of the whole southeast U.S. operation.

We would equip the surface search radar on three of the Aerostats that are in the Bahamas. These are the balloons that fly at altitude, shore-based, and they have a "look-up" capability but they don't have any surface capability We would use some of that money to put a "look-down" capability on these balloons so that while they are flying they could look for surface targets as well as air.

Those are the majority of the things that we would do with that. If we had some extra money left over from that, we would use it for additional E-2C's, and maybe we would take a look at this proposal to put 360-degree radar on the C-130's. That would be a powerful surveillance system, and we've had an unsolicited proposal for about $60 million to do two of them. We don't have the money to do that; it's not in the President's budget, and I'm not supporting it. I'm just saying that if I had the extra money, these are the kinds of things that I could effectively spend it on.

Mr. HUTTO. How many C-130's do you have?

Admiral YOST. We've got 31 airframes, and we divide those into operational aircraft and spare aircraft.

This shows that I have 24—the total number is 24, I guess, that are operational, and the rest are—that doesn't sound right. I'll give you that for the record.

Mr. HUTTO. I appreciate it.

[Information to be supplied follows:]

USCG HC-130 FLEET AS OF DATES SPECIFIED

TOTAL	FUNDED ALLOWANCES	SPARE	SUPPORT	
26	22	**0	4*	1 OCT 87
31	24	3	4	22 JUN 88
31	25	2	4	1 JUL 88
31	27	0	4	1 OCT 88

* A total of 4 Support aircraft are required to support our total fleet size of 31 (as per Aviation Requirements FY89-93). "Support" is defined as aircraft in programmed depot level maintenance or undergoing a modification at the depot.

** the only reason we "temporarily" have spare aircraft is they are awaiting FY88 and FY89 follow-on OE funding to become funded allowances.

Mr. HUTTO. But anyway, of those that you have——

Admiral YOST. OK, let's take the number 25 as the operational C-130's that we have. That's our operational allowance; that's the number of aircraft that we use. Any extras that we have are for strike-damaged aircraft and for overhaul.

Mr. HUTTO. Where do you have those deployed?

Admiral YOST. Of those, 12 of them are on the east coast. That would leave 13 on the west coast. Because they are big aircraft, they take a considerable amount of support. We tend to put them together in pods rather than scatter them out. There are a lot of them at Kodiak, Alaska; there are a lot of them at Clearwater, Florida, Elizabeth City, North Carolina; Sacramento, California and Barbers Point in Hawaii.

Mr. HUTTO. And how are they mainly used?

Admiral YOST. They are all long-range search aircraft. Some of them are used on occasion for logistics, particularly in Alaska where we have a lot of small stations that are very isolated, but for the most part they are a search aircraft, either for drug interdiction, fisheries enforcement, or search and rescue. They're multimission.

Mr. HUTTO. And none of these have the forward-looking radar that you would like to have in a couple of them?

Admiral YOST. We are equipping the entire fleet with forward-looking radar.

Mr. HUTTO. The entire fleet?

Admiral YOST. The entire fleet. That's an expensive radar, a multi-million dollar radar. It's the APS-137. I think some of those radars are being paid for by Navy funds because it's a weapons system. Because we weren't willing to wait for Navy money for all of them, we put some of our own Coast Guard money in them. I've still got a few that aren't programmed to get the radars yet, and if I had extra money above the President's budget, I would use that to fill out the rest of the fleet.

Mr. HUTTO. I understand that you have to have a C-130, I believe, to accompany an E-2C if it's taken down into the Gulf or the Caribbean?

Admiral YOST. Well, that's the part of the logistics mission. When that E-2C goes down to deploy for 10 days, we have to take a lot of equipment—we have to take the diaper bag and the bottles and the pacifiers and all the things that you need for a very sensitive baby. It takes a lot of care.

Mr. HUTTO. OK. You've pretty well given us your comments on H.R. 4658. Let me get you to elaborate a little more—you mentioned, I believe, the liability protection to Navy commanders in cases where vessels that won't stop have to be fired into. Have there been such cases or any lawsuits yet on this matter?

Admiral YOST. There have been such cases, no lawsuits. But on July 16th, 1983, the U.S.S. *Kidd* fired into the Motor Vessel *Ranger*. No one was hurt. Nearly 29 tons of marijuana were seized.

On December 10, 1986, the U.S.S. *McCloy*—which, by the way, has been a real super ship in this operation; the *McCloy*, every time she gets under our OPCON down there, she does a super job—but the *McCloy* fired into the *Rose Marie*. One person was badly injured. What happened was that the *McCloy* told the *Rose Marie* to stop and fired warning shots. The *Rose Marie* elected not to stop. The *McCloy* fired into her engine room. He had told her to remove everybody from the engine room. They left one man in the engine room. A .50 caliber round went into the engine room, ricocheted around, hit the man in the arm, took a glob of flesh off the arm, and another one ricocheted around and took out his right eye. So he was badly injured. He was medically evacuated; his life was saved. Fortunately, there was 10 tons of marijuana aboard. But in either of these vessels, if when we had gone aboard there had been no contraband and no error had been made, I'm sure that there would have been a suit. It isn't fair to put these Navy skippers, who do such a great job, on the line without giving them that protection.

Mr. HUTTO. OK.

On the Asset Forfeiture Fund, has the Coast Guard had difficulties in receiving payments from the fund?

Admiral YOST. Have we had difficulties?

Mr. HUTTO. Yes, sir. Have you had difficulties in receiving payments from this fund?

Admiral YOST. Yes, we have. Our Coast Guard District commanders that operate in the Southeast are both concerned that they don't get access to that fund. The Seventh Coast Guard District, for instance, has made repeated written requests to Customs, and there were no responses to these requests. The 8th District did receive payments up through fiscal year 1986, but nothing thereafter.

So there are some problems there. The Commissioner of Customs and I have discussed it. He and I are in support of this bill that you've written here. It's a good bill and it will give us access, and both he and I are happy with it.

Mr. HUTTO. Has the Coast Guard been diligent enough in their claims for reimbursement and been vigilant in pressing for your fair share of this?

Admiral YOST. Well, I think we have. The fund has been limited; there has been a cap on it. The Commissioner has had full say-so on how those funds are allocated, and he has simply done what's understandable. He's been more interested in his Customs Service getting money from that Fund than he has us getting money, and I understand that. I'd just like the law to make it a little more of an even playing field, and I think you've done that.

Mr. HUTTO. But the Coast Guard, like Customs, is eligible to take its operating expenses off the top—I guess you're not eligible? In other words, Customs has the advantage in that they can take their operating expenses off the top of the proceeds from the seizures. You can't do that, can you?

Admiral YOST. Well, we can. We can—of course, we do the seizures. We turn the vessel over to them and they do the forfeiture.

Mr. HUTTO. So they have the money?

Admiral YOST. So they have the money in their fund, and the Commissioner has the pencil and the fund.

Now, we have the authority to request from him reimbursement for our expenses for the seizure. Just our expenses, not the full value of the asset——

Mr. HUTTO. But you've done that, and they haven't reimbursed you even though you have requested it?

Admiral YOST. They haven't been as forthcoming as I would have liked them to have been.

Mr. HUTTO. But getting back to that point, I understand that Customs, even before they put that money into the fund, if they seize a vessel they can take their operating expenses off the top.

Admiral YOST. I think they can. I think you're right.

Mr. HUTTO. So even though there is so much money in the fund, Customs is already taking care of themselves before it is in the fund.

Admiral YOST. I am told that you are absolutely right, Mr. Chairman.

Mr. HUTTO. Have you had any problem finding out the amount of money in the fund and how much Customs has received from the fund, and so on?

Admiral YOST. No, that hasn't been a problem. I know there's a cap on the fund; I think it's $17 million or $18 million a year, the maximum that can be taken out for these things. We haven't had any trouble finding what's there.

Captain Barry, would you discuss this item?

Mr. HUTTO. Captain Barry, go right ahead.

Captain BARRY. Mr. Chairman, there is a legal issue that we have discussed with the Chief Counsel of Customs and his staff. You are correct that they do take their expenses out of the proceeds of sale, and then the residue is deposited into the Customs Forfeiture Fund.

It is a legal issue. Their lawyers do not think that they have legal authority to provide that same procedure with regard to Coast Guard seizures. They think that perhaps they cannot reimburse us for our expenses before they put the residue in the fund, so apparently the entire amount that they recover from Coast Guard seizures goes into the fund. And as the Commandant mentioned, we have not had very much success in recovering those expenses.

Mr. HUTTO. OK.

One thing, our staff has tried to get the amount of money that Customs has reimbursed themselves. We have been unsuccessful. Do you have figures on that?

Captain BARRY. The lack of success that you have experienced is shared in our offices.

Mr. HUTTO. I wonder who would know?

Captain BARRY. Customs, perhaps.

Admiral YOST. Well, the Commissioner of Customs knows, I'm sure, and I assure you that he and I are cooperating fully.

Mr. HUTTO. OK. You've cooperated; you just haven't gotten your share. You've cooperated too much.

Admiral YOST. Maybe I've been co-opted. [Laughter.]

Mr. HUTTO. There you go.

Let's get to the issue of where Coast Guard should be. If, as you've testified, only 24 percent of the Coast Guard's missions would fit under Treasury while 76 percent of its missions fit under Transportation, what can justify a move to Treasury as proposed in Mr. English's bill?

Admiral YOST. Well, as I testified to the English subcommittee, I didn't think it was a good idea for us to go to Treasury for the very reasons that the Treasurer, as a Cabinet officer, has a relatively narrow portfolio regarding Coast Guard missions. The only mission in Treasury that matches the Coast Guard mission is drug law enforcement.

On the other hand, the Department of Transportation has a somewhat wider portfolio regarding Coast Guard missions, and everything that the Coast Guard does fits under the Department of Transportation as a Cabinet-level department except fisheries law enforcement and defense of this country. Everything else the Coast Guard does fits under there very well. There's no other Cabinet-level office under which we would fit as well as we do under Transportation.

So I don't see any way that it would make sense for us to go to Treasury. If we were to move from Transportation, I don't know where to tell you to move us.

Mr. HUTTO. Are you aware of a bill—I guess it may be the English bill—that the Ways and Means presumably was going to mark up last week? I don't think they did, but are you up to speed on that?

Admiral YOST. I don't think I am, sir.

Mr. HUTTO. OK.

Admiral YOST. That's not the English bill?

Mr. HUTTO. Well, they didn't do it. Hopefully, they won't.

Admiral YOST. Well, I think that provision of the Anti-Drug Abuse Act of 1988, and I think it will be folded into that, in the DeConcini bill—I think that issue is probably a dead issue. My fear is not that we'll be moved to Treasury; I don't think we will at this point. My fear is that we won't be able to work out our budget problems in a satisfactory way, although I'm assured by Senator Lautenberg, my Appropriations Subcommittee Chairman in the Senate as late as last evening, that our budget problems would in fact be worked out to find us at the President's level. So I am parked on the Senate side.

Mr. HUTTO. OK.

I spoke to Mr. English some time ago, or he spoke to me, and indicated that he was not now pushing for it to be transferred. And also, I wrote to Chairman Rostenkowski expressing opposition to this move.

Admiral, how do you explain a recent Navy Times survey where a large percentage of enlisted personnel favor transferring Coast Guard to some other department?

Admiral YOST. I've addressed that with a Commandant's Message to all CO's and officers in charge and asked them to sit down with their troops and discuss the issue.

I think there's a high sense of frustration over the Coast Guard budget. That high sense of frustration is manifest by our personnel in the field by saying, "Any other port in a storm is better than this one because we have had a low budget, year after year after year." So there is a great desire to do something about it, and that is reflected in this poll with a move to Treasury or a move to Defense, when the real problem lies within subcommittees within the Congress and not within cabinet-level departments in the Administration. But it's a complex thing, and it's hard to explain to our troops. I think we've tried that; I think that what you saw was not a well thought out desire of the entire Coast Guard to move to Treasury. It was a high level of frustration on the budget, shared by the entire Coast Guard.

Mr. Hutto. All right, so let's turn to some other bills, now. If you would please discuss H.R. 4608.

Admiral Yost. H.R. 4608 would amend 14 U.S.C. 2 to say that the Coast Guard shall enforce laws over the high seas as well as on and under, and that's a critical item that we need in the legislation. We warmly support it, and we appreciate the support of not only Mr. Davis, but you as our chairman in that, sir.

The next provision of——

Mr. Hutto. As you know, that part of it is in the 1988 authorization, if we can ever get that.

Admiral Yost. And to that extent, to the extent that it is, I have an agreement with Customs not to push that provision outside of our authorization bill. This was an agreement by Mr. von Raab and myself that that would happen in our authorization bill, but I would not make a big point of it in other bills, etc.

So though I support the provision, I'm not necessarily anxious to see it made a separate bill if it can be done in the authorization process.

Mr. Hutto. All right. Do you have any further comments on that one?

Admiral Yost. No. I can go to the next provision, Section 202.

Mr. Hutto. All right.

Admiral Yost. Section 202 of that bill provides that the Coast Guard have the same authority over aircraft that it has over vessels on the high seas and in territorial seas, etc.

The problem with this is that we have ruled out in this country, I think, the use of force against aircraft. It's apparent that the people of the United States and the Congress and my own Secretary of Transportation feel that it's inappropriate to use force against aircraft. The Coast Guard then would prefer not to see any rewrite of 14 U.S.C. 89 because it has a long judicial history favorable to the current Coast Guard law enforcement authority. We're afraid that if we open it up, there's a chance that there could be some changes put in it that would hurt our general authority that we've exercised under that statute for a long time. We don't see any advantage now to gaining the authority to use force against aircraft when the obvious position of this administration and this Congress is that that's not a very good idea. We'd like to just leave it the way it is. We do not support Section 202.

I'll have my legal officer talk a little bit more about that if I've been confusing, because maybe I have.

Mr. Hutto. Okay. I'm sorry for the interruptions, but this is one of those days. I think this possibly will be the last one for a while, so we'll stand in recess for just a few minutes.

Admiral Yost. All right, sir.

Mr. Hutto. Thank you.

[Recess.]

Mr. Hutto. It looks like today we have a lot of voting and a little bit of hearing, so now we will return for a little more hearing.

Admiral Yost. All right, sir.

Mr. HUTTO. All right, let's see. You were talking about Mr. Davis' bill. You had gone on quite a while but I don't think you had discussed nearly as much as you had intended to.

Admiral YOST. No, sir. I think I was in Section 202 that had to do with force against aircraft. Rather than close out that issue, I would like a little time to discuss with staff—and Mr. Davis' staff as well—some of the elements of that issue and respond further in writing, if I may, to Section 202.

Mr. HUTTO. All right.

[Information to be supplied follows:]

DISCUSSIONS ON SECTION 202

Discussions were held with Mr. Davis' staff. These discussions did not result in any change to the language of the section. The section was not offered as an amendment to the Hutto bill, HR 4658. Our opposition to it remains.

Mr. HUTTO. OK. We would need it expeditiously because of the markup. Could that be accomplished quickly? We mark up Tuesday.

Admiral YOST. Well, let me have discussions with Mr. Davis' staff. If we have more to respond to, we would have it to you in time. If discussions with staff don't lead to anything else, I won't reply any further in writing on that issue.

Section 203, again with the amendments to the Customs Forfeiture Fund, is extremely well-written. We fully support it. We have an agreement with Customs, as I mentioned, that the Coast Guard should be granted equal access to the fund, and the technical drafting is currently being worked on with Customs and Mr. Davis' staff, I would guess.

Section 204, the authority and protection of Navy commanding officers, again, we fully support that. It's well-written and we appreciate that being in there. It's very similar to the one in the Hutto bill as well.

Section 205, indemnification of Coast Guard members and employees—again, something we badly need, and we applaud Mr. Davis' Section 205, very similar to Section 205 in the Hutto bill.

Authorization of appropriations in the Davis bill—did you want me to talk about that at this time? I think that finishes the provisions of the bill.

Mr. HUTTO. Let's see. On Title III——

Admiral YOST. Yes, excuse me. Section 301, interagency agreement on Great Lakes drug interdiction. We support that. We have one little technical amendment that we'll discuss with staff. It has to do with equating the Secretary of Transportation and the Secretary of Treasury if there's going to be an agreement. If there's going to be an agreement with the Commissioner of Customs, it ought to be the Commandant of the Coast Guard. That's a minor thing. In other words, if we're going to have the Commissioner of Customs sign it, I'll sign it rather than have my Secretary sign it; we'll work that out with staff. We support the amendment.

Section 302, increased long-range aircraft for the Great Lakes—at the moment we have, as I testified, 24 or 25 active operational C-130's. The C-130 is a long-range aircraft. We station them in pods throughout the country at about five discrete air stations. The logistics chain for an aircraft is very large. We don't see a need for an aircraft with that kind of range routinely in the Great Lakes. So although we're not going to oppose this section of the bill, the Commandant doesn't find a need at this time, compared to his other needs, for a long-range aircraft in the Great Lakes. The threat analysis and the current law enforcement patrol activity doesn't support it.

Section 303, negotiations with Canada on drug enforcement cooperation—we feel that this section is well-written. We don't object to any part of it; however, it seems to be more of a State Department item, and we would defer to the Department of State for substantive comments on this particular section.

Title IV, vessel identification—I think it might be well to send that in for the record. I think we need more consultation with Mr. Davis' staff. There have been some consultations at the table here just previous to your returning, sir. We did have a discussion with staff, and I'm not sure that we're ready to make a definitive statement regarding that. We will have it in before the markup on vessel identification. We have some concerns, so at this point I cannot support it, but maybe after modifications and consultations we can.

[Information to be supplied follows:]

Consultations on Title IV, Vessel Identification

Consultations with staff did not lead to any satisfactory resolution of the issues. We did not submit anything before workup since we were advised by Mr. Davis' staff that they would not be offering the section as an amendment to H.R. 4658.

Admiral Yost. That's it, sir.

Mr. Hutto. Section 501 is under Title V, reorganization to coordinate maritime law enforcement programs.

Maybe you only have half a bill?

Admiral Yost. No, sir, I'm just struggling to find it. We've looked at that.

This part of the Davis bill has been discussed for, I think, the last two sessions of Congress. There have been discussions on it. There are some innovative ideas in it; there is some discussion of putting NOAA and Coast Guard under one Assistant Secretary or Deputy Secretary of Transportation and creating a new Federal Maritime Administration within the Department.

I think that for one, we would defer somewhat to the Department on this, but we are not warmly in support of this. We don't see very much advantage to the Coast Guard or to our missions in this. It would not combine the NOAA and Coast Guard officer corps; at the same time, it would bring into the Department a unionized enlisted force. That is, the Coast Guard force is enlisted; the NOAA force is a unionized blue-collar force for what we do with our enlisted personnel on ships.

We see some minor problems in putting them together, but we also don't see any advantages so we don't support this particular section.

Mr. Hutto. All right, sir. If we may move down to H.R. 4230, and I'll just ask you a couple of questions which I think——

Admiral Yost. We ought to provide our response on Title V for the record. I've really given a very superficial discussion here, which is all that I'm capable of at the moment. I'd like to be sure that you have our presentation.

Mr. HUTTO. Sure. That would be fine.

[Information to be supplied follows:]

COMMENTS ON TITLE V OF H.R. 4230

The Coast Guard objects to title V of H.R. 4230. It is not apparent that the proposed reorganization would improve government efficiency. The legislation would confuse the distinct roles of the Coast Guard (primarily a defense, safety, and law enforcement agency) and the present Maritime Administration (Primarily a promotional agency and naval auxiliary), which have little in common with each other. While both are committed to maritime safety, the Coast Guard is essentially military in character while the present Maritime Administration is essentially civil. Also, while MARAD functions are primarily administrative, those of the Coast Guard are primarily operational.

The legislation would result in unnecessary and inefficient layering by creating an additional administrative level between the Secretary of Transportation and the Commandant of the Coast Guard and the Director of the new National Maritime Service. That level does not exist now. It would effectively downgrade the level of the Coast Guard and the new National Maritime Service within the Department and would create, in the new Federal Maritime Administration, a unique entity—indeed an anomaly—within the Department.

Moreover, the legislation would create an unnecessary administrative level between both the Commandant (the commander of an armed force) and the Director of the new National Maritime Service, and the Department of Defense. The Coast Guard and the Maritime Administration presently make significant readiness contribution in distinctly different ways. The Coast Guard provides a capability for direct military operations in support of naval missions. The present Maritime Administration's role is to ensure that there are enough merchant ships (and supporting shipyards) to provide necessary logistics support. Since the two functions are not overlapping or directly interrelated, it is difficult to see how an additional level of departmental coordination could be beneficial. Both organizations presently interact relatively successfully with their counterparts in the defense establishment. In fact, the additional level of administration could actually inhibit interdepartmental cooperation. For example, it could adversely affect the military readiness function of the Coast Guard by impeding the responsiveness of the Coast Guard in fulfilling its maritime defense zone obligations to the Navy and other requirements necessary to operate as a service under the Navy when so directed. Similarly, the proposed Office of Drug Interdiction Coordination could impede our responsiveness to NDPB.

Combining the Office Corps, ships, and aircraft of the National Oceanic and Atmospheric Administration with the Coast Guard without the concomitant flexibility to use those resources as the Commandant deems appropriate would result in unacceptable efficiencies in allocating and scheduling operational resources. It would also raise significant legal issues regarding the status of those resources as part of an armed force and their law enforcement authority as a unit in the Coast Guard. Moreover, the intent of the provision to establish a Merchant Marine Reserve is unclear and may be contrary to the purposes of the present Navy program of providing reserve commissions to selected merchant marine officers. It may also create an expectation of readiness capability which may not necessarily exist and for which resources have not been programmed.

Mr. HUTTO. Just a couple of questions on H.R. 4230 by Mr. English.

Where would the money appropriated to the United States-Bahamas Drug Interdiction Task Force go? How would this money be allocated?

Did I ask that earlier? I guess I did.

Admiral YOST. Well, I think I said on that that I wanted it to be controlled by the Drug Policy Board. I don't think it matters so much whose appropriation it's in, whether it's in the Justice appropriation or the Coast Guard appropriation or the Customs appropriation, as long as it doesn't lead to fusses between agencies on whose money it really ought to be, and then Congressional committees coming in behind their agencies in support of it, and I end up in the Washington Post.

Mr. HUTTO. OK.

Does the bill give the military money to purchase equipment to be loaned to the Coast Guard and Customs? Is that the idea? And if so, why isn't this money given to these agencies directly, or loaned?

Admiral YOST. I think we're talking about the DOD authorization bill or appropriations bill.

Mr. HUTTO. Yes.

Admiral YOST. It does provide a good amount of money in what would normally be our AC&I account. It provides money in the DOD account to be spent by the DOD, and then loaned to the Coast Guard.

I'm very concerned about that provision of it and feel that it would make the bill very difficult to conference, although Senator DeConcini has assured me that he and Congressman Lehman have discussed that matter and the bill is conferenceable. He is confident that the Coast Guard will get its AC&I money either through that method, or in kind, or in the transportation appropriation.

Mr. HUTTO. All right. I would suggest that there are other players that it might be well to check with, and chiefly the appropriations people, Mr. Chappell, Senator Stennis, those folks.

As I said before, if we could feel sure that the Coast Guard was going to get this funding, then that would be great; but if the sentiment prevails that was there when the defense authorization bill was passed, where all these assets were going to be sent to the border and the military is going to be actively involved, I think there's going to be a change in what the Appropriations Committee has done. So that's kind of "iffy" and frightening.

OK. Staff has indicated that maybe you should comment on the English bill's provision on authority on the high seas for Customs.

Admiral YOST. Yes. This has been an item that the Coast Guard was extremely concerned about because we think, for one, it will lead to turf battles. It will lead to turf battles over assets. If Customs has full authority and jurisdiction on the high seas under this Commissioner or under some other Commissioner or sometime in the future, they will want to have assets in order to operate on the high seas. We're talking then about large ships, heavy patrol boats, and those kinds of assets will be in direct competition with the United States Coast Guard, because that's my job.

So first, I think it's a bad idea because it will lead to turf fights over assets.

Second, the Coast Guard's jurisdiction on the high seas is well-accepted. It's been exercised over the years. It is recognized by foreign countries everywhere. We don't present a threat to them. I think that if this country begins to have a plethora of agencies that have jurisdiction on the high seas and begin to board on the high seas, we're going to have some problems in our foreign affairs business. I think that the State Department is sympathetic to what I've just said.

There are some other reasons in the law that are more technical, but the bottom line is that we are absolutely opposed.

Now, I met with the Commissioner of Customs. Our staffs have met. We have an agreement with Customs that we would both support that provision being removed from all the bills where it appears. Customs supports that; I support it, and I hope that we can get it removed from all of the bills.

Mr. HUTTO. Well, as you know, not only you and members of the uniformed Coast Guard but a lot of us vigorously oppose Customs having this authority on the high seas. It's just not their role as I see it. Of course, the proposed transfer to the Treasury, which may or may not have been dropped—I don't know whether they're still pushing that or not, but it was my understanding that they would not.

Finally, on H.R. 4446, if you have any comments on that I would appreciate. Mainly the amount was not nearly sufficient to meet the shortfall.

Admiral YOST. H.R. 4446 had in it, amongst other things, $45 million for—or did it? Let me review this for just a minute.

No, I'm wrong on that.

Captain, are you able to comment?

Could I ask my legal officer to comment?

Mr. HUTTO. Yes, sir.

Captain Barry.

Captain BARRY. Yes, Mr. Chairman. There were a couple of substantive provisions in that bill which for the most part are identical to the provisions in your bill, and of course, we support them. There was also, I think, $45 million in appropriations which was given to the Coast Guard OE money without strings, as I recall.

Admiral YOST. And I've said—there was a question that if you got this $45 million in the Shaw bill, would you be able to reopen any Coast Guard units that have been closed due to the budget deficit that you've just had in this fiscal year? We haven't looked at that very hard. If it's true that we got $45 million in OE above the President's budget, we would have the possibility of opening up some of those units. Some of the units we don't want to open up; they weren't effective units to begin with. Some of them, we didn't want to close, and I suppose there would be a possibility of opening some of those. But that's all conjecture. The President hasn't supported that money, and I'm not asking for it. But if we had it, we could effectively use it.

Mr. HUTTO. I believe that you discussed H.R. 4770, really, with Mr. Hochbrueckner in response to his questions this morning.

Admiral YOST. I think so.

Mr. HUTTO. I think that pretty well takes care of it. I appreciate your patience in waiting on us while we voted today. I want to thank you and your staff for appearing. I think that the information presented has been very helpful.

I want to thank the members of the subcommittee for their participation. We will digest this information and come up with the fairest and most thoughtful legislation that we can to serve as the Merchant Marine and Fisheries Committee's contribution to the omnibus drug bill.

So I want to thank you, Admiral Yost, and Captains Barry, Crosby, and Allington for being with us today. Thanks very much.

Admiral YOST. Thanks, Mr. Chairman.

Mr. HUTTO. The Subcommittee on Coast Guard and Navigation stands adjourned.

[Whereupon, at 3:05 p.m., the subcommittee adjourned.]
[The following was submitted for the record:]

100TH CONGRESS
2D SESSION

H. R. 4230

To enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 1988

Mr. ENGLISH (for himself, Mr. ROBINSON, Mr. WYDEN, Mr. DIOGUARDI, Mr. GIBBONS, Mr. FASCELL, Mr. GILMAN, Mr. NELSON of Florida, and Mr. PEPPER) introduced the following bill; which was referred jointly to the Committees on Government Operations, the Judiciary, Ways and Means, Foreign Affairs, Energy and Commerce, Education and Labor, Armed Services, Merchant Marine and Fisheries, Science, Space, and Technology, Permanent Select Committee on Intelligence, and Post Office and Civil Service

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A BILL

To enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Antidrug Abuse Act of 1988".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized as follows:

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

SUBTITLE A. Asset Forfeiture Fund Amendments Act of 1988.
SUBTITLE B. State and local narcotics control assistance.
SUBTITLE C. Chemical Diversion and Trafficking Act of 1988.
SUBTITLE D. Comprehensive Federal Law Enforcement Officer Improvements Act of 1988.
SUBTITLE E. Deportation of convicted foreign drug inmates.
SUBTITLE F. Customs Enforcement Amendments Act of 1988.
SUBTITLE G. Authorization of additional appropriations for drug enforcement personnel, fiscal year 1989.
SUBTITLE H. Miscellaneous law enforcement provisions.

TITLE II—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

SUBTITLE A. International drug eradication improvement program.
SUBTITLE B. International narcotics matters improvement and special assistance programs.
SUBTITLE C. Amendments to Foreign Assistance Act of 1961, as amended.
SUBTITLE D. International narcotics matters authorization of appropriations.
SUBTITLE E. Latin American Antidrug Strike Force.

TITLE III—DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

SUBTITLE A. Coast Guard.
SUBTITLE B. United States Customs Service.
SUBTITLE C. Department of Defense drug interdiction assistance.
SUBTITLE D. Drug Enforcement Administration.
SUBTITLE E. Immigration and Naturalization Service/Border Patrol.
SUBTITLE F. Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force.
SUBTITLE G. United States-Bahamas Drug Interdiction Task Force.
SUBTITLE H. Special drug interdiction support.

TITLE IV—DEMAND REDUCTION

SUBTITLE A. Treatment and rehabilitation.
SUBTITLE B. Alcohol and drug abuse treatment and rehabilitation.
SUBTITLE C. Amendments to the Drug-Free Schools and Communities Act.

TITLE V—NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

SUBTITLE A. Establishment of Office of Enforcement and Border Affairs in Department of Treasury.
SUBTITLE B. Department of Defense drug interdiction reorganization.

TITLE VI—RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A. Establishment of new research and development programs to assist Federal law enforcement agencies.
Subtitle B. Cargo container drug detection research and development.

TITLE VII—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A. Federal Law Enforcement Training Center Improvement Act of 1988.
Subtitle B. Department of Justice Training Facilities Improvement Act of 1988.
Subtitle C. Federal Law Enforcement Language Training Improvement Act of 1988.
Subtitle D. Authorization of appropriations for special training centers.

TITLE VIII—DRUG TESTING IN THE PRIVATE SECTOR

TITLE IX—CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTIDRUG ABUSE PROGRAMS

TITLE I—DRUG ENFORCEMENT AND PERSONNEL ENHANCEMENT

Subtitle A—Asset Forfeiture Fund Amendments Act of 1988

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Department of Justice and Department of Treasury Assets Forfeiture Fund Amendments Act of 1988".

SEC. 102. ASSET FORFEITURE FUNDS.

(a)(1) For the purpose of calculating the deficit and Federal budget outlays under the Budget Control Act of 1974, expenditures out of the Department of Justice Assets Forfeiture Fund, established by section 524(c)(1) of title 28, United States Code, and the Customs Forfeiture Fund, established by section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall not be scored as outlays which either increase or decrease the Federal budget deficit: *Provided*, That the amounts to be expended out of such asset forfeiture funds shall not be subject to limitation by appropriations Acts.

(2) Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended by—

(A) striking out "subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1991. The fund shall be available" in subsection (a); and

(B) striking out "during the period beginning on the date of the enactment of this section, and ending on September 30, 1987," in subsection (c); and

(C) repealing subsection (f).

(b) Section 524(c)(1) of title 28 of the United States Code is amended by striking out "and" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General shall transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions, and to the Support of United States Prisoners in non-Federal Institutions account of the Department of Justice for payments authorized by the Attorney General or his designee under contracts and cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bedspace for Federal detainees within that correctional system. The Attorney General shall report to the appropriate committees of the Congress any amount proposed to be transferred under this subparagraph.".

(c) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

(d)(1) Section 524(c)(1)(A) of title 28, United States Code, is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "and the Attorney General may exempt the procurement of contract services and supplies under the fund from section 3709 of the

Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal or civil investigations".

(2) In the administration of the Customs Forfeiture Fund, the Commissioner of Customs may exempt the procurement of supplies or services under such Customs Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal or civil investigations.

SEC. 103. RESTORATION OF EQUITABLE SHARING PROVISIONS.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) redesignating paragraph (2) as paragraph (3); and

(2) inserting after paragraph (1) the following new paragraph:

"(2) The Attorney General shall ensure the equitable transfer pursuant to paragraph (1)(A) of any forfeited property to the appropriate State and local law enforcement agency or prosecutor's office so as to reflect generally the contribution of any such agency or prosecutor's office participating directly in any of the acts which led to the seizure or forfeiture of such property or prosecution of any underlying criminal case or forfeiture action.".

Subtitle B—State and Local Narcotics Control Assistance Act of 1988

SEC. 110. DECLARATION AND PURPOSE.

(a) Congress finds that this Nation is engulfed in an epidemic of drug abuse that is threatening our country's productivity and, in particular, the minds and future of our youngest citizens. Throughout the past decade, trends in trafficking and abuse patterns have necessitated a new response—one that is the product of a nationwide strategy that is not limited by jurisdictional boundaries and single constituency interests. The absence of legislatively mandated or policy driven targeting of resources and energy will sustain a scattered approach to a drug abuse problem which, by its nature, demands a concerted, coordinated attack.

(b) Congress further finds that State and local governments are critical participants in a national effort to reduce the demand for and stem the distribution of drugs in this Nation.

(c) It is therefore the declared policy of the Congress to initiate a new national strategy to curb drug abuse in the

United States that makes full use of the energy and expertise of State and local units of government.

(d) It is the purpose of this subtitle to empower States to address their own jurisdictional drug control problems while, simultaneously, supporting national drug control priorities and objectives. Congress finds that enhanced national attention, and thus resources provided under this subtitle, are required in the areas of (1) generation and linkage of intelligence information and systems; (2) coordination of effort at the Federal, State, and local levels of government; (3) model legislation enacted on a nationwide basis; (4) strategic drug control planning and policy that integrates education, prevention, treatment, enforcement, prosecution, and corrections in a systemwide approach; (5) standardization of data collection systems; and (6) technological and operational advancements.

PART A—ESTABLISHMENT OF THE BUREAU OF JUSTICE ASSISTANCE

SEC. 111. BUREAU OF JUSTICE ASSISTANCE.

Section 401 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741) is amended to read as follows:

"There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereinafter referred to in this part and part D as the "Bureau"). The Bureau shall be headed by a Director (hereinafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this or such parts.".

SEC. 112. DUTIES AND FUNCTIONS OF THE DIRECTOR.

The Director of the Bureau of Justice Assistance (hereinafter in this subtitle referred to as the "Bureau"), in addition to his duties under part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968, shall—

(1) provide funds to eligible States, units of local government, and private nonprofit and public organizations pursuant to this subtitle;

(2) after consultation with Federal, State, and local drug control agencies, develop an annual State and Local Strategic Drug Control Plan that integrates priorities and critical needs of Federal, State, and local drug control; and

(3) publish and disseminate information on the condition and progress of drug control activities at the

Federal, State, and local levels, with particular attention to programs and intervention efforts demonstrated by assessments to be of value in an overall national strategy.

SEC. 113. STATE AND LOCAL COORDINATION.

To assure that all Federal assistance to State and local drug control programs is carried out in an efficient manner, the Bureau is authorized to coordinate activities and request any Federal department or agency to supply such statistics, program reports, and other material as the Bureau deems necessary to carry out its functions under this subtitle. Each such department or agency is authorized and directed to cooperate with the Bureau and, to the extent permitted by law, to furnish such materials to the Bureau. The Bureau shall—

(1) ensure a fully coordinated effort toward a national drug control strategy involving drug control departments, agencies, and boards at the Federal, State, and local levels of government;

(2) serve as the coordinating Federal agency for the submission of a single application for all State and local grant-in-aid programs under the Antidrug Abuse Act of 1986; coordinate the application requirements with each of the Federal agencies involved to allow for one State document that represents a statewide drug control strategy incorporating all drug control elements

(e.g., prevention, education, enforcement, treatment). Such single State submission is intended to meet the requirements of the Departments of Education, Health and Human Services, Justice, and any other Federal agencies providing financial or technical assistance and intergovernmental fiscal transfers; and

(3) consider the priorities of and maintain liaison with Federal agencies having drug control authority to assure a coordinated placement and implementation of major programs to the initiated.

PART B—DRUG CONTROL FORMULA GRANT PROGRAM

SEC. 114. GRANTS.

It is the purpose of this part to encourage the implementation of a nationwide and multilevel drug control strategy through the development of programs and projects which will assist multijurisdictional and multi-State in the drug control problem and support national drug control priorities. It is not the intent of Congress to restrict the use of programs at the State and local level, but to encourage a systematic approach to a national strategy which will involve all participants working toward a similar goal. Grants may be made for additional personnel, equipment, facilities, personnel training, and supplies. The Bureau is authorized to make grants to States having statewide drug control strategies approved by the Bureau for:

(1) Zero Tolerance Enforcement Programs that effect heightened public awareness of and support for local drug control enforcement projects such as drug specific (e.g., gang targeted, organized crime) task forces, street sweeps, and special projects for high visibility crime areas.

(2) Multi-Jurisdictional Task Force Programs that integrate the resources and knowledge of Federal, State, and local drug law enforcement agencies for the purpose of enhancing interagency coordination and facilitating multijurisdictional investigations.

(3) Precursor Control Programs designed to prevent major precursor chemicals from reaching clandestine laboratories, including recordkeeping systems, monitoring procedures, and model legislation such as that enacted by the States of Arizona, California, Nevada, and Texas.

(4) Pharmaceutical Diversion Programs directed at the licensing, regulation, and investigation of practitioners registrants, including Schedule 2 triplicate prescription programs and enactment of model legislation.

(5) Law Enforcement Demand Reduction Programs that increase the participation of drug law en-

forcement officers in drug abuse prevention programs, such as the Law Enforcement Explorers Program, Sport Drug Awareness Program, and Drug Abuse Resistance Education (DARE).

(6) Countermeasures Threat Analysis Programs that address the technological capabilities of drug traffickers, the threat that such technology poses to the safety and effectiveness of drug law enforcement officers, and responses to the threat, including nationwide threat assessments, and technology development projects.

(7) Clandestine Laboratory Programs that enhance the investigative capabilities of State and local officers, and provide certified training and equipment necessary to ensure the safety of State and local personnel who seize and enter clandestine laboratories.

(8) Drug Control Law Enforcement Training Programs that enhance the technical capabilities of State and local drug control personnel.

(9) Multi-Jurisdictional Intelligence and Data Sharing Programs designed to effect the linkage of regional intelligence systems, standardize data reporting systems, and increase multijurisdictional access to nationwide data bases.

(10) Domestic Cannabis Programs that target major financiers, cultivators, and distributors, and that provide the resources and training that are essential for effective State and local eradication efforts.

(11) Financial Investigative Programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the enactment of model legislation, financial investigative training, and financial information sharing systems.

(12) Drug Control Innovative Enforcement Programs which will demonstrate new and different approaches to drug control activities. Each project shall contain an evaluation component and the results of such will be provided to the Bureau. Up to 10 per centum of the total enforcement projects may be used for this program.

(13) Model Drug Control Legislation Programs that encourage State adoption of model legislation in areas such as money laundering, activities under chapter 96 of title 18, United States Code, electronic surveillance, asset seizure and forfeiture, grand jury powers, schoolyard violators, criminal organization use of juveniles, mandatory and enhanced sentencing.

(14) Drug Control Prosecution Training Programs to develop and conduct training projects designed to enhance prosecutorial expertise in the prosecution of complex drug conspiracy cases, including search warrant preparation, asset seizure and forfeiture (for both prosecutors and investigators), grand jury presentations, case preparation and presentation, and electronic surveillance utilization.

(15) For use in States that have the authority to undertake prosecutions but lack the necessary resources to initiate activities under those statutes, Combined Prosecution and Law Enforcement Investigative Programs to develop enforcement and prosecution projects to assist State and local law enforcement agencies to use existing State laws specifically targeted toward narcotics trafficking conspiracies and offenders.

(16) Corrupt Public Officials Programs that give priority attention to any case involving drug-related official corruption. This program is consistent with the zero-tolerance approach to drug control and can enhance public confidence thereby increasing support for drug control law enforcement efforts.

(17) State and Local Laboratory Programs that enhance existing forensic laboratories through the use of additional personnel, equipment, facilities, training,

and supplies. Projects will standardize reporting drug control data and intelligence information on a nationwide basis as well as reports to prosecutors, thus reducing the court time for laboratory personnel.

(18) Prosecutor Resource Enhancement Programs that enhance existing prosecutor services resulting from an expanded caseload of drug control cases. Projects will improve case management through the use of additional personnel (e.g., prosecutors, investigators), management information systems, and programs such as career criminal targeting, and accelerated prosecutions.

(19) Drug Control Innovative Prosecution Programs which will demonstrate new and different approaches to drug control activities. Each project shall contain an evaluation component and the results of such will be provided to the Bureau. Up to 10 per centum of the total prosecution projects awarded may be used for this program.

(20) Judicial Resource Enhancement Programs that enhance existing court resources resulting from an expanded caseload of drug control cases. Projects may include additional judges and supporting staff, equipment, and facilities.

(21) Judicial Drug Control Training Programs that are designed to enhance the technical expertise of judicial personnel in drug control cases.

(22) Pre-Trial Drug Control Testing Programs that provide urinalysis testing as a pretrial device for providing drug-use data to courts. Projects can provide jail space by continued monitoring of nondetained individuals.

(23) Drug Control Innovative Adjudication Programs which will demonstrate new and different approaches to drug control activities. Each project shall contain an evaluation component and the results of such will be provided to the Bureau. Up to 10 per centum of the total judicial projects awarded may be used for this program.

(24) Intensive Supervision Programs which reduce drug use and criminal activities through intensive probation. Project elements may include surveillance, urinalysis, and treatment standards. Treatment Alternatives to Street Crime projects may be funded under this program.

(25) Jail Treatment Programs which identify drug abusing offenders and initiate appropriate treatment while incarcerated (pre- and post-trial), and coordinate

with community treatment providers for inmates upon release.

(26) Prison Treatment Programs which provide a continuum of treatment services to the drug dependent offender. Projects may include a range of treatment modalities such as therapeutic communities, drug resource centers, drug education projects, and self-help groups.

(27) Drug Treatment for Youthful Offenders Programs which address the needs of the youthful offenders. Projects may include special intensive efforts or projects conducted in coordination with educational institutions.

(28) State Corrections Policy Groups and Sentencing Commissions dealing with long-range State corrections strategies and national sentencing structures for both drug related and other crimes.

(29) Enhancement of Indicator Systems Programs which collect and disseminate data regarding drug use, availability, and other drug trend information vital to the effective planning and intelligence. This may include criminal history and transactional information systems.

(30) Statewide and National Intelligence Systems Programs which collect, disseminate, and use investi-

gative or intelligence information for drug control enforcement activities. Emphasis of these projects shall be the sharing of information at Federal, State, and local levels of government.

(31) Drug Control Evaluation Programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities.

SEC. 115. STATE DRUG CONTROL OFFICES.

The chief executive officer of each participating State and territory shall designate a State drug control office for the purpose of—

(1) preparing an application to obtain funds under this part; and

(2) administering funds received from the Bureau, including receipt, review, processing, monitoring, progress, and impact reporting, financial report review, technical assistance, grant adjustments, accounting, auditing, and funds disbursements.

SEC. 116. STATE DRUG CONTROL BOARDS.

The chief executive officer of each participating State and territory shall establish or designate and maintain a State Drug Control Board for the purpose of—

(1) analyzing the drug control problems within the State based on data, information, and intelligence from

all eligible jurisdictions and State agencies and establishing statewide drug control priorities based on such;

(2) preparing a statewide drug control strategy reflecting the State's drug control problems, an assessment of current activities, coordination requirements, resource needs, and the statewide goals, objectives, priorities, and projected programs and projects;

(3) receiving, reviewing, and approving (or disapproving) applications from State agencies and units of local government;

(4) preparing an annual report for the chief executive of the State and the State legislature containing an assessment of the State drug control program developed under this part, for submission to the Bureau; and

(5) assuring fund accountability, auditing, and evaluation of programs and projects funded under this part to assure compliance with Federal requirements.

SEC. 117. MEMBERSHIP OF THE STATE DRUG CONTROL BOARDS.

The State Drug Control Board shall be subject to the jurisdiction of the chief executive of the State who shall appoint the board members, designate a chairman and provide staff to serve the board. The board should be broadly representative of the State's drug control community, with representatives from disciplines such as drug enforcement, prosecution, courts, corrections, treatment, education, and prevention, including private treatment providers.

SEC. 118. LOCAL DRUG CONTROL OFFICES.

The State drug control office shall assure that local units of government for metropolitan areas (primary metropolitan statistical areas as defined by the Bureau of the Census) or any contiguous combination of such (both interstate and intrastate), having a population of 500,000 or more, are permitted to establish a local office for the purpose of preparing and coordinating drug control strategies and implementing the provisions of this part at the local level of government. The chief executive of an eligible jurisdiction as defined above shall create or designate an office for the purpose of preparing and developing an area-wide drug control strategy and assuring that such strategy complies with the Federal and State requirements, to include fund accounting, auditing, and evaluation of programs and projects to be funded under this part. Where an eligible jurisdiction chooses not to form a local drug control office, it shall be treated as all other jurisdictions within the State.

SEC. 119. LOCAL DRUG CONTROL BOARDS.

Each eligible jurisdiction shall establish or designate a local drug control board for the purpose of—

(1) analyzing the drug control problems within the jurisdiction based on data, information, and intelligence

from all eligible units of local government and establishing jurisdictionwide drug control priorities based on such;

(2) preparing a jurisdictionwide drug control strategy reflecting the jurisdiction's drug control problems, an assessment of current activities, coordination requirements, resource needs, and the jurisdiction's goals, objectives, priorities, and projected programs and projects;

(3) receiving, reviewing, and approving (or disapproving) applications from units of local government; and

(4) preparing an annual report for the chief executive of the jurisdiction and the State office (or offices in the case of metropolitan areas or State boundaries) containing an assessment of the drug control program developed under this part.

SEC. 120. MEMBERSHIP OF LOCAL DRUG CONTROL BOARDS.

(a) The Local Drug Control Board shall be subject to the jurisdiction of the chief executive who shall appoint the members and designate the chairman. The Board shall be representative of the drug control community, with representatives from disciplines such as drug enforcement, prosecution, courts, corrections, treatment, education and prevention, including private treatment providers.

(b) In the case of an eligible jurisdiction being formed by a combination of jurisdictions, the membership of the Board shall be jointly appointed in such a manner as the chief executive of each unit of local government shall determine by mutual agreement. Decisions made by the Board pursuant to this part may be reviewed and either accepted or rejected by the chief executive of the jurisdiction, or a combination of jurisdictions in such a manner as the chief executive of each unit of local government shall determine by mutual agreement.

SEC. 121. NATIONAL DRUG CONTROL ASSISTANCE COORDINATION BOARD.

The Bureau shall establish a National Drug Control Assistance Coordination Board, which will provide for the representation of drug control agencies at the Federal, State, and local levels for the purpose of articulating national drug control priorities, programs, and resource needs. The Bureau is directed to prepare a National Strategic Drug Control Plan which will target critical drug control problems and lead to a National Drug Control Strategy that will integrate Federal, State, and local drug control priorities.

SEC. 122. BOARD MEMBERSHIP.

(a) The Board shall consist of twenty members representing State and Federal agencies having responsibilities for drug control activities. Each of the five national regions would appoint two representatives to the Board and the appropriate Federal agencies would appoint the remaining ten members. The ten Federal appointees shall be approved by the Attorney General. The Director will serve as the Board Chair.

(b) The Bureau shall develop all rules and procedures, provide staff services and the financial resources required by the Board.

SEC. 123. STATE APPLICATION.

(a) To request funds under this part, the chief executive officer of the State shall submit to the Bureau an application, at such time and in such form as the Director may require. No State application shall be approved unless it includes—

(1) a statewide strategy for drug control. The strategy must contain (A) a definition and analysis of the drug problem in the State, and an analysis of that problem in each of the major cities and counties with major drug control problems; (B) an assessment of the efforts existing as of the time of the application to address the drug control problem at the State and local level; (C) coordination requirements; (D) resource needs; (E) the establishment of statewide priorities for drug control activities and programs; and (F) an analysis of the relationship of the proposed State efforts to the national drug control strategy;

(2) the following certifications and assurances signed by the chief executive or his authorized representative:

(A) a certification that Federal funds made available under this part will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for drug law enforcement activities;

(B) a certification that funds required to pay the non-Federal portion of the costs of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipients of grant funds;

(C) an assurance that the State application described in this part, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this part, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted);

(D) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood community groups; and

(E) an assurance that following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this part will be submitted to the Bureau; and

(3) a provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds received under this part.

(b) The data requirements on which the statewide strategy is based shall be developed by the Bureau and provided to each State for the purpose of assuring a unified national data reporting system.

SEC. 124. GRANT LIMITATIONS.

(a) Not more than 20 per centum of a grant made under this part may be used for costs incurred to administer such grant by the State and local offices. The State is authorized to use up to 10 per centum as administrative funds and the local offices are authorized to use up to 10 per centum as administrative funds. If not used for administrative purposes at the local level, such funds must be used for the purpose contained in part B.

(b) States are authorized to use part B funds for the expenses associated with participation in the State and Local Task Force Program established by the Drug Enforcement Administration.

(c) The State shall provide to metropolitan area(s), of the pass-through formula, a per centum not less than the per centum which the population (500,000 or more) is to the total population of the State.

(d) The State shall make available such funds to eligible metropolitan area(s) within 30 days after the Bureau's approval of the State application.

SEC. 125. MATCHING FUNDS.

(a) The non-Federal portion of the cost of the programs or projects authorized by part B of this subtitle shall be in cash.

(b) Any Federal grant made under this part shall cover up to 100 percent of the cost of the programs and projects authorized by this part for the first year in which a grant is approved; up to 90 percent of the cost of the programs and projects authorized by this part for the second year of such grant; and up to 75 percent of the cost of the programs and projects authorized by this part for the third year of such grant.

SEC. 126. REVIEW OF STATE APPLICATIONS.

(a) The Bureau shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

(1) the application and amendment thereto is consistent with the requirements of this part;

(2) the statewide strategy is in accordance with the Bureau's guidelines, representative of statewide priorities and the priorities of all eligible jurisdictions, represents a sincere attempt on the part of the applicant to control drug trafficking and abuse and clearly represents an interest by the applicant to cooperate with other States and jurisdictions relative to drug control; and

(3) the application and any amendment have been reviewed in accordance with this part and that an affirmative finding has been made, in writing, that the application, strategy, and programs and projects are representative of the broad priorities and resource needs of the State and eligible jurisdictions encompassed by the strategy.

(b) Each application or amendment made and submitted for approval to the Bureau pursuant to this part shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received, unless the Bureau informs the applicant of specific reasons for disapproval prior to the expiration of such 60-day period.

(c) Grant funds awarded under this part shall not be used for land acquisition or construction projects.

(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Bureau under this part without first affording the applicant reasonable notice and opportunity for reconsideration.

SEC. 127. ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS.

(a) Of the total amount appropriated for this part in any fiscal year, 80 per centum shall be set aside for the formula grant program and allocated to States as follows:

(1) $500,000 shall be allocated to each of the participating States and territories; and

(2) of the total funds remaining after the allocation under the above paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such States bears to the population of all the States.

(b)(1) Each State which receives funds under subsection (a) of this section in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such States, for the purposes specified in the formula grant program, that portion of funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

(2) Any funds not distributed to units of local government under paragraph (b)(1) shall be available for expenditure by the State involved.

(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year is not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Bureau or by the State involved for any program other than a program contained in an application.

(d) If the Bureau determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under the formula grant program, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Bureau to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

(e) Any funds allocated under subsection (a) that are not distributed under this section shall be available for obligation under part C of this subtitle.

PART C—DRUG CONTROL DISCRETIONARY GRANT PROGRAM

SEC. 128. PURPOSE.

It is the purpose of this part to provide for the direct funding of projects to improve and strengthen the drug control and related criminal justice support activities at the State and local levels.

SEC. 129. PURPOSE OF GRANTS.

The Bureau is authorized to develop programs and make grants to public agencies and private nonprofit organizations for technical assistance, training, national scope and demonstration projects in support of any of the purposes (or groups of purposes) specified in part B of this subtitle, and any purpose contained in the strategic drug control plan developed by the Bureau. The Director shall have final authority over all grants awarded under this part. In developing Discretionary Grant programs, the Bureau shall insure a balance between the various components of the criminal justice system and drug treatment and rehabilitation agencies. Discretionary funds may be used as incentives to develop programs in the weaker elements of the statewide drug control strategies. Because of the crisis facing State and local corrections, the Director shall insure adequate attention to this component, as well as support for corrections-based drug treatment and rehabilitation programs.

SEC. 129A. GRANTS.

(a) A grant authorized under this part may be up to 100 per centum of the total cost of each project for which the grant is made.

(b) Grant funds awarded under this part shall not be used for land acquisition or construction projects.

SEC. 129B. APPLICATION REQUIREMENTS.

(a) No grant may be made under this part unless an application has been submitted to the Bureau in which the applicant—

(1) sets forth a program or project which is eligible for funding pursuant to this subtitle;

(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out; and

(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals; and

(4) agrees to conduct such evaluation according to the procedures and terms established by the Bureau.

(b) Each applicant for funds under this part shall certify, in a form acceptable to the Director, that—

(1) the program or project meets all the requirements of this part;

(2) all of the information contained in the application is correct; and

(3) the applicant will comply with all of the provisions of this part and all other applicable Federal laws.

SEC. 130. ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS.

(a) Of the total amount appropriated for this subtitle in any fiscal year, 20 per centum shall be reserved and set aside for this part.

(b) Of the total amount appropriated for this subtitle in any fiscal year, 20 per centum shall be made available to metropolitan areas and consolidated jurisdictions of populations in excess of 500,000 for the purpose of assisting the

State in providing a comprehensive drug control program in an area determined to have an extensive drug control problem.

(c) Each State shall indicate the need for such funds through the submission of the State strategy and application. The Bureau will evaluate the strategy to determine those major cities with the most critical drug control problems, including the resources to be committed by the State and local units of government, and the planned activities for drug control. After site selections are made, the Bureau shall request formal applications.

(d) Of the total amount appropriated for this part in any fiscal year, 5 per centum shall be made available for the purpose of evaluation of programs and projects contained in this subtitle.

SEC. 131. PERIOD OF AWARD.

The Bureau may provide financial aid and assistance to programs and projects under this part for a period not to exceed 3 years. Grants made pursuant to this part may be extended or renewed by the Bureau for an additional period of up to 2 years if—

(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals and offers the potential for improving the drug control problem; and

(2) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from formula grant funds or from any other source of funds.

PART D—TARGETED STATE AND LOCAL STRATEGIC DRUG CONTROL PLAN

SEC. 132. LOCAL PRIORITIES AND PROGRAMS.

It is the intent of this part to establish an ongoing process for integrating Federal, State, and local priorities and programs.

SEC. 133. PLAN.

(a) The Bureau is directed to complete an annual National Strategic Drug Control Plan which targets the most critical drug control problems that are most effectively resolved at the State and local levels.

(b) Such plan shall be developed by the Bureau in consultation with the State Drug Control Boards and those Federal agencies and boards authorized to engage in drug control programs including, but not limited to, the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs, Department of the Treasury, Department of Defense, Department of Education, Department of Health and Human

Resources, and the Department of Justice and agencies thereof.

(c) Each annual plan shall include an assessment of the current drug control problem, emerging trends, critical response areas, resource assessment, coordination requirements, and objectives for the next fiscal year.

(d) Such plan shall effect the coordination of resources and strategies at the Federal, State, and local levels culminating in a "blueprint" for action involving the Congress, the Administration, and Federal drug control agencies in total cooperation with units of State and local government.

PART E—MISCELLANEOUS AMENDMENTS TO JUSTICE ASSISTANCE ACT OF 1984

SEC. 133A. AMENDMENTS TO 42 U.S.C. 3769 CRIMINAL JUSTICE FACILITY CONSTRUCTION PILOT PROGRAM.

(a) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701–3799) is amended by deleting "Pilot".

(b) Section 602(a)(1) of part F of such Act (42 U.S.C. 3769a) is amended by deleting ", with the concurrence of the Director of the National Institute of Corrections established in chapter 315 of title 18, United States Code,".

(c) Section 603(b)(1)(B) of part F of such Act (42 U.S.C. 3769b) is amended by deleting "20" and inserting in lieu thereof "80".

(d) Section 603(c) of part F of such Act (42 U.S.C. 3769b) is amended by deleting "20" and inserting in lieu thereof "80".

PART F—ADMINISTRATIVE PROVISIONS

SEC. 134. RULES; REGULATIONS.

The Bureau is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this subtitle.

SEC. 135. DOCUMENTS.

The Bureau shall, within 120 days following the date of the enactment of this Act, prepare both a "Program Brief" and "Implementation Guide" documents for each of the programs and projects contained in the formula grant program.

SEC. 136. FUNCTIONS NOT TO BE TRANSFERRED.

The functions, powers, and duties specified in this subtitle to be carried out by the Bureau shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

SEC. 137. REIMBURSEMENTS.

The Bureau may arrange with and reimburse other Federal departments and agencies for the performance of functions under this subtitle only if the funds are to benefit the units of State or local government. Funds under this subtitle are not to be used to supplement the budgets of other Federal departments and agencies.

SEC. 138. OFFICERS; EMPLOYEES.

Subject to the civil service and classification laws, the Bureau is authorized to select, appoint, employ, and fix the compensation of such officers and employees as shall be necessary to carry out its powers and duties under this subtitle.

SEC. 139. PROGRAM AND PROJECT EVALUATION.

(a) The Bureau shall provide for the development and, to the maximum extent feasible, implementation of procedures for the evaluation of programs and projects in terms of their success in achieving the ends for which they were intended, their conformity with the purposes and goals of the State strategy, and their effectiveness in reducing drug control problems. State and local units of government shall evaluate a reasonable number of programs and projects to be determined, and to provide such results to the Bureau.

(b) The Bureau shall set aside 5 per centum of part C funds for the purpose of evaluation of programs and projects in part B and part C and the effectiveness of State strategy development and implementation in selected States. Such results shall be included in the State and Bureau reports.

SEC. 140. STATE PROGRAM AND PROJECT REPORTS.

(a) Each State which receives a grant under part B of this subtitle shall submit to the Bureau, for each year in which any part of such grant is expended by a State or local unit of government, a report which contains—

(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under this subtitle;

(2) a summary of activities carried out in such year with any grant received under part C of this subtitle by such State;

(3) the evaluation result of programs and projects; and

(4) such other information that the Bureau may require.

(b) The report required by subsection (a) shall be submitted in such a form and by such time as the Bureau may require.

SEC. 141. BUREAU PROGRAM AND PROJECT REPORTS.

(a) Not later than 180 days after the end of each fiscal year for which grants are made under part B and part C of this subtitle, the Director shall submit to the Speaker of the House and the President pro tempore of the Senate a report that includes with respect to each State—

(1) the aggregate amount of grants made under parts B and C of this subtitle to such State for such fiscal year;

(2) the amount of such grants expended for each of the programs specified in part B;

(3) a summary of the information provided by the States required by this part; and

(4) evaluation results of programs and projects and State strategy implementation.

(b) Such report shall, in addition, be submitted by the Director to the Committees on Appropriations of the House and Senate; and the Committees on the Judiciary of the Senate and the House for review.

SEC. 142. EXPENDITURE OF GRANTS; REPORTS.

(a) A grant made under part B of this subtitle may not be expended for more than 60 per centum of the costs of the identified uses, in the aggregate, for which such grant is received to carry out any purpose specified in part B, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 per centum of such costs. The non-Federal portion of the expenditures for such uses shall be paid in cash.

(b)(1) Each State which receives a grant under part B of this subtitle shall keep, and shall require units of local government which receive any part of such grant, to keep, such records as the Director may require to facilitate an effective audit.

(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States, which receive grants, and of units of local government which receive any part of a grant made under part B, if in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

PART G—FUNDING

SEC. 143. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, to carry out the grant programs authorized under this subtitle, $250,000,000 for the fiscal year ending September 30, 1989; $500,000,000 for the fiscal year ending September 30, 1990, of which up to 50 percent shall be used to continue the programs and projects for which grant funds were awarded in fiscal year 1989; and $750,000,000 for the fiscal year ending September 30, 1991, of which up to 50 percent shall be used to continue the programs and projects for which grant funds were awarded in fiscal years 1989 and 1990.

SEC. 144. AUTHORIZATION OF ADDITIONAL PERSONNEL TO IMPLEMENT THE STATE AND LOCAL NARCOTICS CONTROL ASSISTANCE ACT OF 1988.

There is authorized to be appropriated, $5,000,000 in fiscal year 1989 for salaries and expenses of the Bureau of

Justice Assistance: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or as provided in regular appropriations bills or continuing resolution for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to hire an additional 96 fulltime equivalent positions and shall be used by the Bureau of Justice Assistance only for the purposes of carrying out the State and Local Narcotics Control Assistance Act of 1988, as authorized under this subtitle.

SEC. 145. AUTHORIZATION OF APPROPRIATIONS FOR CRIMINAL JUSTICE FACILITY CONSTRUCTION PROGRAM.

There are hereby authorized to be appropriated, $100,000,000 in fiscal year 1989; $150,000,000 in fiscal year 1990; and $200,000,000 in fiscal year 1991 for grants to States, units of local government and combinations of such units to assist in construction of correctional facility projects, and in planning to relieve overcrowding and substandard conditions in correctional facilities, as authorized by section 601 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3769).

PART H—RELATIONSHIP WITH THE JUSTICE ASSISTANCE ACT OF 1984

SEC. 145A. ADMINISTRATION OF FUNDS.

(a) The Bureau of Justice Assistance shall administer any funds available under the Justice Assistance Act in such a manner as to compensate for the quantum increase in cases resulting from apprehensions and accelerated prosecution of persons accused of drug trafficking, possession, and related offenses. Such concentration of resources is intended to support the use of proven successful programs of the Justice Assistance Act for courts and corrections agencies in processing drug cases and offenders.

(b) State, metropolitan, and other jurisdictions are encouraged to participate in Justice Assistance Act funding and to integrate use of these monies with funds allocated under their drug statewide strategy in such a manner as to assure the smooth functioning of criminal justice administration in these jurisdictions.

(c) The program and project matching requirements of the Justice Assistance Act, currently set at 50 percent State/local, shall, on and after the effective date of this section, be the same as the 3-year sliding scale of increasing State and local contribution established under section 127 of part B of this subtitle.

Subtitle C—Chemical Diversion and Trafficking Act of 1988

SEC. 154. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 155. PRECURSOR CHEMICALS AND ESSENTIAL CHEMICALS.

Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read a follows:

"PRECURSOR CHEMICALS AND ESSENTIAL CHEMICALS

"SEC. 310. (a)(1) Except as provided under paragraph (3) of this subsection any person who manufactures, distributes, imports or exports a substance listed under subsection (d) shall maintain records and make reports as the Attorney General may by regulation require concerning the distribution, receipt, sale, importation or exportation of said listed substances. Such records shall be in a form such that they are readily retrievable from ordinary business records and shall be kept and made available, for at least 5 years, for inspection and copying by officers or employees of the United States authorized by the Attorney General. In establishing regulations concerning required records and reports, the Attorney General may establish a threshold quantity for recordkeeping and reporting requirements for each listed chemical.

The Attorney General may include in the information required to be maintained or reported the following:

"(A) The quantity, form, and manner in which, and date on which, the substance was distributed, imported or exported.

"(B)(i) In the case of the distribution or exportation to an individual, the name, address, and age of the individual and the type of identification presented to establish the identity of the individual.

"(ii) In the case of the distribution or exportation to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the substance and the type of identification presented to establish the identity of the individual and of the entity.

"(2) Except as provided under paragraph (3) of this subsection, no person may distribute or export a substance listed under subsection (d) unless the recipient or purchaser presents to the distributor a certification of lawful use and identification, to establish the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents), of such a type as the Attorney General establishes by regulation.

"(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

"(A) the distribution of listed substances between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

"(B) the delivery of listed substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, importation, or exportation of substances to a third person, this subparagraph shall not relieve the distributor, importer, or exporter from compliance with paragraph (1) or (2); or

"(C) any distribution, importation, or exportation with respect to which the Attorney General determines that the reports or records required by paragraph (1) or the presentation of identification or certification required by paragraph (2) is not necessary for the enforcement of this subchapter.

"(D) any distribution, importation or exportation of any drug product which contains a listed substance and which can be lawfully marketed in the United States under the provisions of the Federal Food, Drug, and Cosmetic Act.

"(b) It shall be unlawful:

"(1) To import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any substance listed under subsection (d) unless the substance is imported for commercial, scientific, or other legitimate uses, and—

"(A) in the case of substances listed in subsection (d)(1), pursuant to a permit issued by the Attorney General; or

"(B) in the case of substances listed in subsection (d)(2), pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

"(2) To export from the United States to any other country a substance listed under subsection (d) unless there is furnished (before export) to the Attorney General documentary proof that exportation is not contrary to the laws or regulations of the country of destination for consumption for medical, commercial, scientific, or other legitimate purposes—

"(A) in the case of substances listed in subsection (d)(1), pursuant to a permit issued by the Attorney General; or

"(B) in the case of substances listed in subsection (d)(2), pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

"(c) The Attorney General may by rule—

"(1) add substances to the list in subsection (d) if the Attorney General finds that—

"(A) such substance is a precursor or essential chemical which can be used to manufacture a controlled substance; and

"(B) such substance is being used in the manufacture of controlled substances in violation of this title.

"(2) delete a substance listed in subsection (d) or added to the list by rule if the Attorney General finds that its listing no longer meets the criteria set forth in paragraph (1).

"(d) The provisions of this title shall apply to the following:

"(1) Precursor chemicals:

"(A) N-Acetylanthranilic acide;

"(B) Anthranilic acid;

"(C) Ergotamine tartrate;

"(D) Ergonovine maleate;

"(E) Phenylacetic acid;

"(F) Ephedrine;

"(G) Pseudoephedrine;

"(H) Benzyl cyanide;

"(I) Benzyl chloride;

"(J) Piperidine;

"(2) Essential chemicals:

"(A) Potassium permaganate;

"(B) Acetic anhydride;

"(C) Acetone;

"(D) Ethyl ether.

"(e) Any information which is reported to or otherwise obtained by the Attorney General under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this title or title III or when relevant in any proceeding for the enforcement of this title or title III or when necessary to meet United States treaty obligations.

"(f) For the purposes of this title:

"(1) The term 'import' has the meaning given such term in section 1001 of title III (21 U.S.C. 951(a)(1)).

"(2) The term 'customs territory of the United States' has the meaning assigned to such term by section 1001 of title III (21 U.S.C. 951(a)(2)).

"(g) No person may distribute, sell, import, export, or otherwise transfer to another person any commercial tableting machine or encapsulating machine unless the purchaser, recipient, transferee, or his agent presents to the distributor or supplier a certification of lawful use and identification to establish the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents) of such a type as the Attorney General by regulation may establish.

"(h) Any person who distributes, sells, imports, exports, or otherwise transfers to another person any commercial tableting machine or encapsulating machine shall report the transfer to the Attorney General in such a form as the Attorney General may by regulation require. The Attorney General may require such information as the date of sale or transfer, name and address of transferee, purpose for which equipment is intended, serial numbers, and make/model of equipment.".

SEC. 156. PROHIBITED ACTS A.

(a) INTENT TO MANUFACTURE.—Section 401(d)(1) of the Controlled Substances Act (21 U.S.C. 841(d)(1)) is amended by—

(1) striking "piperidine" and inserting "precursor chemical or essential chemical listed under section 310(d)"; and

(2) striking "phencyclidine" and inserting "any controlled substance".

(b) KNOWLEDGE OR BELIEF OF MANUFACTURE.—Section 401(d)(2) of the Controlled Substances Act (21 U.S.C. 841(d)(2)) is amended by—

(1) inserting "or distributes" after "possesses";

(2) striking "piperidine" the first place it appears and inserting "precursor chemical or essential chemical listed under section 310(d)";

(3) striking "piperidine" the second place it appears and inserting "precursor chemical or essential chemical"; and

(4) striking "phencyclidine" and inserting "any controlled substance".

(c) ADDITIONAL OFFENSES.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by—

(1) striking "or" in paragraph (1); and

(2) adding new paragraphs (3), (4), and (5) as follows:

"(3) manufactures, distributes, imports, or exports a precursor chemical or essential chemical listed under section 310(d) except as provided for by this title,

"(4) possesses any precursor chemical or essential chemical listed under section 310(d), with knowledge that the recordkeeping or reporting requirements of section 310(a) or regulations issued thereunder have not been adhered to, or

"(5) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, receives or distributes a reportable amount of any chemical listed under section 310(d) in units small enough so that the making of records or filing of reports under section 310(a) is not required,".

SEC. 157. PROHIBITED ACTS B.

(a) DISTRIBUTION AND SALES.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended by—

(1) striking "or sell piperidine" and inserting "a precursor chemical or essential chemical listed under section 310(d)"; and

(2) inserting "or certification" after "identification".

(b) TECHNICAL CORRECTIONS.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking subparagraph (C).

SEC. 158. PROHIBITED ACTS C.

Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended by—

(1) in paragraph (4)(B) striking "piperidine" and inserting "a precursor chemical or essential chemical listed under section 310(d)";

(2) in paragraph (4)(B) inserting "or certificate" after "identification" where it appears;

(3) in paragraph (4)(B) striking "or" after the semicolon; and

(4) adding the following paragraphs after paragraph (5) as follows:

"(6) to possess any drug manufacturing equipment, tableting, or encapsulating machines, or gelatin capsules with intent to manufacture a controlled substance except as authorized by this title; or

"(7) to manufacture, distribute, or import any drug manufacturing equipment, tableting, or encapsulating machines, or gelatin capsules knowing, or having reasonable cause to believe, that they will be used to manufacture a controlled substance except as authorized by this title.".

SEC. 159. ADDITIONAL PENALTY.

Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended by adding at the end of the paragraph: "In addition, any person convicted of a violation of this section or section 401 relating to the receipt, distribution, importation, or exportation of substances listed in section 310(d) shall be enjoined from conducting business activities with such substances for a minimum of ten years.".

SEC. 160. FORFEITURE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding a new paragraph (9) as follows:

"(9) all chemicals listed under section 310(d), all drug manufacturing equipment, all tableting, or encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, in violation of this title, as well as all conveyances and equipment, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any way facilitate the transportation, distribution, receipt, possession, or concealment of precursor chemicals and essential chemicals, drug manufacturing equipment, tableting, or encapsulating machines, or gelatin capsules, in violation of this title, except as provided for under paragraph (4)(A) and (B) above.".

SEC. 161. DUTY OF ATTORNEY GENERAL.

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances. This program shall include appropriate controls on the purchase, sale, import, and export of these chemicals and development of cooperative efforts with foreign drug control authorities.

SEC. 162. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by—

(1) in paragraph (11), inserting after "a controlled substance" both places it appears "or a precursor chemical or essential chemical listed under section 310(d)";

(2) in paragraph (8), inserting "or a precursor chemical or essential chemical" after "a controlled substance"; and

(3) adding new paragraphs (33) and (34) as follows:

"(33) The term 'precursor chemical' means a substance that may be used in the chemical process of manufacturing controlled substances and which is incorporated into the final product and is therefore critical to its manufacture.

"(34) The term 'essential chemical' means a substance that may be used in the chemical process of manufacturing controlled substances as a solvent, reagent, or catalyst.".

SEC. 163. SUBPOENA POWER.

Section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by adding "or precursor chemicals or essential chemicals" after "with respect to controlled substances".

SEC. 164. CLERICAL AMENDMENT.

The table of sections for part C of the Controlled Substances Act is amended by striking the item relating to section 310 and inserting the following in lieu thereof:

"310. Precursor chemicals and essential chemicals.".

SEC. 12. EFFECTIVE DATE.

This subtitle shall take effect 120 days after the date of enactment of this Act.

Subtitle D—Comprehensive Federal Law Enforcement Officer Improvements Act of 1988

SEC. 171. SHORT TITLE.

This subtitle may be cited as the "Comprehensive Federal Law Enforcement Officer Improvements Act of 1988".

SEC. 172. RESTORATION OF HAZARDOUS DUTY EARLY RETIREMENT OPTION UNDER FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

Section 8401(17)(B) of title 5, United States Code, is amended by striking out "for at least 10 years" and inserting in lieu thereof "for at least 3 years".

SEC. 173. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(b) Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

SEC. 174. DEFINITIONS.

As used in this section and sections 176, 177, and 178—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

SEC. 175. ESTABLISHMENT AND PURPOSES OF THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, two of whom shall be selected by the Majority Leader and two of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, two of whom shall be selected by the Speaker and two of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and two other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of three departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups to be selected by the Office of Personnel Management after consultation with the Speaker of the House and the Majority Leader of the Senate.

(b) The Commission shall study the methods and rates of compensation, including salary, overtime pay, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors

as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences be-

tween rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation; and

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers.

SEC. 176. POWERS OF THE COMMISSION.

(a) The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other

Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to section 3324 of title 31, United States Code, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

(b) The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are Members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(e) A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(f) The Chairman of the Commission shall call and preside at meetings of the Commission, but the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

SEC. 177. REPORT AND DISSOLUTION OF COMMISSION.

(a) Within 6 months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(1) the findings and determinations made by the Commission pursuant to section 176(b); and

(2) specific proposals for such legislation and administrative regulations as the Commission has deter-

mined to be necessary or appropriate pursuant to section 176(b)(8).

(b) The Commission shall be terminated 60 days following submission of the report mandated by this section.

Subtitle E—Deportation of Convicted Foreign Drug Inmates

SEC. 182. SHORT TITLE.

This subtitle may be cited as the "Violent Criminal Alien Deportation Act".

SEC. 183. DEFINITIONS.

(a) The term "violent criminal alien" for purposes of this subtitle means any alien, including an alien crewman, who has been convicted and sentenced for an aggravated violent felony in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia.

(b) The term "aggravated violent felony" for purposes of this subtitle means (1) any offense, attempt, or conspiracy involving murder, assault and battery against a police officer, peace officer, or other law enforcement officer, kidnaping, arson, robbery, extortion, burglary, rape, forcible sodomy, or dealing in narcotic or other dangerous drugs which is chargeable under State law and punishable by imprisonment for more than one year; or (2) any offense or conspiracy to commit any offense which is indictable under any of the following provisions of the United States Code; 18 U.S.C. 111 (relating to assault on a Federal officer); 18 U.S.C. 351 (relating to assault of a Member of Congress, Cabinet officer, or Supreme Court Justice); 18 U.S.C. 891–894 (relating to extortionate credit transactions); 18 U.S.C. 1114 (relating to the homicide of a Federal law enforcement officer); 18 U.S.C. 1201 (relating to kidnaping); 18 U.S.C. 1751 (relating to the homicide of the President); 18 U.S.C. 1951, 1952, 1952A, and 1952B (relating to interference with commerce by threats or violence); 18 U.S.C. 2113 and 2118 (relating to robbery); 18 U.S.C. 2421–24 (relating to white slave traffic); subsections (i), (j), (k), and (l) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy); or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic or other dangerous drugs, including precursor and essential chemicals (as defined in section 310 of the Controlled Substances Act), punishable under any law of the United States.

SEC. 184. ADDITIONAL GROUNDS FOR DEPORTATION; GROUNDS FOR APPEAL.

(a) Notwithstanding any other provision of law, except section 243(h) of the Immigration and Nationality Act, any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported as a violent criminal alien if such alien has been convicted and sentenced in a United States district court or in a court of record of any State, territory, possession, or in the District of Columbia for an aggravated violent felony and such conviction and sentence shall revoke by operation of law the permanent resident status of any alien and such conviction and sentence shall serve as conclusive evidence of the deportability of any alien.

(b) Notwithstanding any other provision of law, the District Director of the Immigration and Naturalization Service for the district in which it appears that an alien was convicted and sentenced for an aggravated violent felony shall, on behalf of the Attorney General, issue an order of deportation for the alleged violent criminal alien which shall be effective as of the date of sentence.

(c) Notwithstanding any other provision of law, an order of deportation for an alleged violent criminal alien, in his native language, shall be personally served on the alleged violent criminal alien named therein. Said order of deportation shall be simply worded to inform the alleged violent criminal alien of at least the following information:

(1) the data and the court in which the subject of the order of deportation was convicted and sentenced for an alleged aggravated violent felony;

(2) a description, including the citation, of the crime alleged to be the aggravated violent felony;

(3) a notice that the order of deportation will become a final order of deportation unless the subject of the order petitions a United States district court to vacate the order of deportation within 30 days of its personal service on the alleged violent criminal alien; and

(4) an explanation of the procedure to vacate the order of deportation.

(d)(1) Notwithstanding any other provision of law, a person alleged to be a violent criminal alien may petition a United States district court to vacate an order of deportation on the grounds that he is a United States citizen and therefore not subject to an order of deportation, that he is not the person named in the order of deportation as having been convicted and sentenced for the aggravated violent felony which is the basis for the order of deportation, or that the conviction which is the basis for the order of deportation is not an aggravated violent felony as that term is defined in this Act.

(2) A petition to vacate an order of deportation by the person named therein as a violent criminal alien must set forth under oath the ground or grounds, set forth in subsection (a), upon which the alleged violent criminal alien seeks to vacate his order of deportation. If petitioner claims United States citizenship, he must allege the names of his natural mother and father and the date and place of his birth.

(3) A petition by an alleged violent criminal alien to vacate an order of deportation must be served on the United States Attorney for the judicial district in which the petition is filed. Within 30 days of service upon the appropriate United States Attorney, a reply shall be filed with the district court and served upon the alleged violent criminal alien or his attorney acknowledging or disputing, with appropriate documentary evidence, the ground or grounds alleged in the petition as the basis to vacate the order of deportation.

(4) Within 30 days of the service on the alleged violent criminal alien or his attorney of the reply of the United States Attorney, a United States district judge may conduct a hearing, without a jury, to resolve any disputed questions of fact as to whether the person alleged to be a violent criminal alien is a United States citizen, or as to whether the person who is the subject of the order of deportation was convicted and sentenced for an aggravated violent felony as that term is defined in this Act, or as to whether the crime alleged in the order of deportation is an aggravated violent felony as that term is defined in this Act. The burden of proof by a preponderance of the evidence is upon the petitioner to establish United States citizenship and the burden of proof by a preponderance of evidence is upon the United States to establish that the person named in the order of deportation is petitioner or that petitioner was convicted and sentenced for

an aggravated violent felony, as that term is defined in this Act. The Federal Rules of Evidence shall apply to this hearing. At the conclusion of the hearing the United States district court must make a finding as to whether petitioner is a violent criminal alien and thus subject to deportation pursuant to this Act. If petitioner is adjudicated a violent criminal alien, the court shall issue a final order of deportation.

(5) Petitioner may appeal a final order of deportation, issued pursuant to this subtitle, to the appropriate United States court of appeals, and said order of deportation shall be stayed pending the decision and order of the court of appeals. The United States may appeal the vacatur of an order of deportation, issued pursuant to this subtitle, to the appropriate United States court of appeals.

(e) Notwithstanding any other provision of law, when the conviction and sentence of an aggravated violent felony, which served as the basis for the deportation of a person who had previously been lawfully admitted for permanent residence, is reversed by a United States district court or by a court of record of any State, territory, possession, or in the District of Columbia, the alien may petition the Attorney General from his native country for discretionary reinstatement of the status of an alien lawfully admitted for permanent residence.

(f) Nothing in this subtitle shall be construed as altering the authority of a special inquiry officer with respect to proceedings to determine the deportability of aliens other than violent criminal aliens.

SEC. 185. AMENDMENTS.

Section 276 of the Immigration and Nationality Act is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien", and

(2) by adding at the end thereof the following:

"(b)(1) Notwithstanding subsection (a), in the case of any alien described in subsection (a)—

"(A) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated violent felony), such alien shall be punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000, or both, or

"(B) whose deportation was subsequent to a conviction of commission of an aggravated violent felony, such alien shall be punishable by imprisonment for not more than 15 years and by a fine of not more than $20,000.

"(2) For purposes of this subsection, the term 'aggravated violent felony' is as defined in section 183(b) of the Violent Criminal Alien Deportation Act.".

Subtitle F—Customs Enforcement Amendments Act of 1988

SEC. 187. SHORT TITLE; AMENDMENTS.

(a) This subtitle may be cited as the "Customs Enforcement Amendments Act of 1988".

(b)(1) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 543" and inserting "section 545".

(2) Section 1822(c) of the Mail Order Drug Paraphernalia Control Act is amended by striking out "upon conviction of a person for such violation".

SEC. 188. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 431(c)(1)(G) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended by striking out "or" and inserting in lieu thereof "of".

(b) Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433) is amended by—

(1) striking out the section heading and inserting in lieu thereof:

"SEC. 433. VESSELS, VEHICLES, AND AIRCRAFT REPORTING REQUIREMENTS.";

(2) striking out "ARRIVAL" and inserting in lieu thereof "REPORTING REQUIREMENTS" in the caption of subsection (c);

(3) redesignating the content of subsection (c) as subsection (c)(1); and

(4) inserting the following at the end of subsection (c)(1):

"(2) The pilot of any aircraft shall, prior to departing the United States, comply with such advance notification and reporting requirements as the Secretary may by regulation prescribe.".

(c) Section 436 of the Tariff Act of 1930 (19 U.S.C. 1436) is amended by—

(1) inserting ", except for violations of section 433(c)(2)," after "listed in subsection (a)" in subsection (b); and

(2) inserting the following new subsection after subsection (d):

"(e) Any aircraft pilot who commits any violation of section 433(c)(2) of this Act, or any regulations promulgated thereunder, is liable for a civil penalty of $25,000 for the first violation, and $100,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.".

(d) Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497), is amended by striking out "200 percent " and inserting in lieu thereof "1,000 percent".

(e) Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end thereof the following new subsection:

"(i) For purposes of this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to a vessel—

"(A) the high seas if the vessel is—

"(i) a vessel of the United States as defined in section 3 of Public Law 96-350 (46 U.S.C. 1903) or section 3 of the Anti-Smuggling Act (19 U.S.C. 1703);

"(ii) a vessel registered in a foreign nation or a vessel with a foreign nationality where the flag state has consented or waived objection to boardings or examinations by United States officials; or "(iii) a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas; and

"(B) the territorial seas, internal waters, or contiguous zone of a foreign country, if that country consents to boardings or examinations by United States officials; and

"(3) with respect to aircraft to which this section applies by virtue of section 644 or section 1109 of the Federal Aviation Act (49 U.S.C. 1509) or regulations issued thereunder, any location in a foreign country at which United States customs officers are permitted to conduct inspections, examination, or searches.".

(f) Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by—

(1) adding the following sentence at the end of subsection (a): "A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a United States District Court. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to 46 U.S.C. 961) from

the date of the act for which the forfeiture was incurred. Officials of the various States, insular, possessions, territories and commonwealths shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States."; and

(2) by striking out "During the period beginning on October 30, 1984, and ending on September 30, 1987, the" in subsection (b) and inserting in lieu thereof "The".

(g) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended by—

(1) inserting "is authorized to retain forfeited property for official use, or the Secretary" after "the Secretary of the Treasury"; and

(2) striking out "which participated directly in the seizure or forfeiture of the property" and inserting in lieu thereof "that cooperates with the United States Customs Service in joint law enforcement operations. The Secretary is also authorized to transfer forfeited property to foreign governments that cooperate with

the United States Customs Service in joint law enforcement operations".

(h) Part V of title IV of the Tariff Act of 1930 is amended by inserting the following new section after section 619:

"SEC. 630. FINES IN CERTAIN CASES.

"Any person who is convicted of a criminal offense under any law administered or enforced by the Customs Service involving the Bank Secrecy Act (31 U.S.C. 5311–5322), Money Laundering (18 U.S.C. 1956 and 1957), or the Controlled Substances Act (21 U.S.C. 801 et seq.), shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, United States Code, except that this sentence shall not apply, and a fine under this section need not be imposed, if the court determines under the provision of title 18 of such Code that the defendant lacks the ability to pay.".

SEC. 189. THE STAMPING OF CONTROLLED SUBSTANCE VIOLATORS' PASSPORTS ACT OF 1988.

(a) The Secretary of State is authorized to make regulations prescribing procedures for indicating on passports and other travel documents issued by the United States, the fact that the holder has been convicted of an offense under a Federal or State law involving controlled substances, or has been assessed a fine or civil penalty or has incurred a forfeiture under any Federal or State law involving controlled substances as defined by section 102 of the Controlled Substances Act (21 U.S.C. 802(6)).

(b) Upon conviction of any violation of a Federal or State law involving controlled substances as defined by the Controlled Substances Act, or any criminal violation of the Bank Secrecy Act (31 U.S.C. 5311–5322), or Money Laundering Act (18 U.S.C. 1956 and 1957), the Secretary of State shall revoke violators passports and other travel documents.

(c) A person whose passport or other travel documents shall have been revoked under subsection (b) of this section for an offense constituting a felony, shall not be eligible to receive a passport or other travel documents for 10 years from the date of the conviction of the crime resulting in revocation. A person whose passport or other travel documents shall have been revoked under subsection (b) of this section for an offense constituting a misdemeanor, shall not be eligible to receive a passport or other travel documents for 5 years from the date of the conviction of the crime resulting in revocation.

(d) No passport or other travel document shall be issued to a person who has been convicted of a Federal or State felony involving controlled substances as defined by the Controlled Substances Act or any criminal violation of the Bank Secrecy Act (31 U.S.C. 5311–5322), or Money Laundering Act (18 U.S.C. 1956 and 1957), during the 20-year period prior to the application. No passport shall be issued to a person who has been convicted of a Federal or State offense constituting a misdemeanor involving controlled substances as defined by the Controlled Substances Act or any criminal violation of the Bank Secrecy Act (31 U.S.C. 5311–5322), or Money Laundering Act (18 U.S.C. 1956 and 1957), during the 5-year period prior to the application.

SEC. 190. AMENDMENT TO THE TARIFF ACT OF 1930.

Part V of title IV of the Tariff Act of 1930 is amended by inserting the following new section after section 630:

"SEC. 631. OATHS AND SUBPENAS.

"(a) IN GENERAL.—For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of any law relating to the importation or exportation of any prohibited merchandise, the Secretary of the Treasury may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents, and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

"(b) SERVICE OF SUBPENAS.—A subpena of the Secretary of the Treasury may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ORDERS TO COMPEL COMPLIANCE.—In the case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or of which the subpenaed person is an inhabitant, carries on business, or may be found, to compel compliance with the subpena of the Secretary of the Treasury. The court may issue an order requiring the subpenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation, and pay the costs of the proceeding. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpenaed person is an inhabitant or wherever he may be found".

SEC. 191. AMENDMENT TO TITLE 18, UNITED STATES CODE.

(a) Section 1961(1)(B) of title 18, United States Code, is amended by inserting "section 545 (relating to smuggling)" immediately after "relating to counterfeiting),".

(b) Section 1961(1)(D) of title 18, United States Code, is amended by striking out "or" immediately after the last comma.

(c) Section 1961(1) of title 18, United States Code, is amended by inserting immediately before the semicolon at the end thereof a comma and the following new clauses: "(F) any act which is indictable under section 38 of the Foreign Military Sales Act (relating to the illegal exportation of munitions) (22 U.S.C. 2778), (G) any act which is indictable under section 11 of the Export Administration Act of 1979 (relating to the illegal exportation of merchandise) (50 U.S.C. Appendix 2410), or section 3 of the Trading With the Enemy Act (relating to criminal violations), or (H) any act which is indictable under section 203 of the International Emergency Economic Powers Act (relating to criminal sanctions) (50 U.S.C. 1702)".

Subtitle G—Authorization of Additional Appropriations for Drug Enforcement Personnel, Fiscal Year 1989

SEC. 192. UNITED STATES COAST GUARD DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) There is authorized to be appropriated for Operating Expenses of the Coast Guard for fiscal year 1989, $45,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to increase Coast Guard drug enforcement personnel by no less than 800 full-time equivalent positions over personnel levels onboard in the Coast Guard as of September 30, 1988.

(b) Nothing in this section shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

SEC. 193. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Customs Service for fiscal year 1989, $30,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase drug enforcement personnel at the Customs Service by no fewer than 600 full-time equivalent positions over the level of such personnel onboard at the Customs Service as of September 30, 1988, and for related equipment.

SEC. 194. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $20,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Act or continuing resolution for the fiscal year ending on September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase drug interdiction officers of the Border Patrol by no fewer than 500 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of September 30, 1988, and for related equipment: *Provided further,* That of these additional personnel, 90 shall be for drug interdiction support personnel and 10 for Border Patrol drug education officers.

SEC. 195. IMMIGRATION AND NATURALIZATION SERVICE/CRIMINAL INVESTIGATOR PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses for the Immigration and Naturalization Service for fiscal year 1989, $3,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to

Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriations shall be used to increase the number of criminal investigator full-time equivalent positions by 50 over such personnel levels onboard at the Service as of September 30, 1988, and for related equipment.

SEC. 195A. ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE, NEW YORK CITY PILOT PROJECT AND REPORT.

(a) There is authorized to be appropriated to the Immigration and Naturalization Service in the Department of Justice for fiscal year 1989, $3,500,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided*, That such additional appropriation shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Force in New York City, by 75 Senior Special Agent and support positions.

(b) The aforementioned positions shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combatting illegal alien involvement in drug trafficking and crimes of violence.

(c) The director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(1) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35 but in that event would only be eligible for nonlaw enforcement retirement benefits.

(2) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(d) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal local prosecutors and enforcement agencies.

SEC. 196. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARMED CAREER CRIMINAL APPREHENSION PROGRAM PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $8,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of Armed Career Criminal Apprehension enforcement personnel at the Bureau by no less than 130 fulltime equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment: *Provided further,* That an additional 10 fulltime equivalent positions shall be used to establish a Bureau of Alcohol, Tobacco, and Firearms Drug Education officers program: *Provided further,* That of the amount authorized to be appropriated by this section, $750,000 shall be available for (1) the equipping for law enforcement functions of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco, and Firearms, and (2) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 197. DRUG ENFORCEMENT ADMINISTRATION PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Drug Enforcement Administration for fiscal year 1989, $60,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase Drug Enforcement Administration enforcement personnel by no less than 224 fulltime equivalent positions over personnel levels onboard at the Drug Enforcement Administration as of September 30, 1988, and for related equipment and drug enforcement operations: *Provided further,* That of these additional positions, 5 fulltime positions shall be used to establish a Drug Enforcement Administration Drug Education officers program.

SEC. 198. FEDERAL BUREAU OF INVESTIGATION DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Federal Bureau of Investigation for fiscal year 1989, $38,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase the number of drug enforcement agents at the Bureau by no less than 400 fulltime equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment and drug enforcement operations: *Provided further,* That of these additional positions, 5 fulltime positions shall be available to establish a Federal Bureau of Investigation Drug Education officers program at the Bureau.

SEC. 198A. U.S. MARSHALS SERVICE DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the U.S. Marshals Service for the fiscal year 1989, $73,800,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used as follows:

(1) $11,500,000 for 230 fulltime equivalent positions for asset seizure and forfeiture activities;

(2) $30,700,000 for 20 fulltime equivalent positions, including $20,000,000 for Cooperative Agreement Program renovation project, and $10,000,000 for maintenance of Federal cell block areas with upgraded security equipment;

(3) $10,000,000 for 188 fulltime equivalent positions for criminal justice support activities, including prisoner production and transportation;

(4) $6,200,000 for 104 fulltime equivalent positions for protection of the Federal judiciary and court facilities resulting from increased drug-related trials;

(5) $4,600,000 for 60 fulltime equivalent positions for increased workloads of the Marshals Service Witness Security Program; and

(6) $10,800,000 for 139 fulltime equivalent positions for increased narcotics-related investigation and arrest of fugitives in the United States and foreign countries.

SEC. 198B. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated in fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $150,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for planning; acquisition of sites, construction of new facilities; purchase; leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses.

Subtitle H—Miscellaneous Law Enforcement Provisions

SEC. 199. REWARDS FOR FUGITIVE CAPTURE.

Section 3059 of title 18, United States Code, is amended by inserting the following new subsection after subsection (b):

"(c) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000 for the capture, or for assisting in or furnishing information leading to the capture, of an escaped Federal prisoner under section 751 of this title, or any person who has violated either section 3146 (bond default), 4213 (parole violation), or 3606 (probation violation), of this title, to be appropriated and expended in the discretion of, and upon such conditions as may be imposed by, either the Director of the United States Marshals Service or the Director of the Bureau of Prisons, as the case may be, pursuant to regulations promulgated by the Attorney General. Not more than $10,000 shall be expended in connection with the capture of any one person.".

SEC. 199A. PROHIBITION OF DANGEROUS WEAPONS IN FEDERAL COURTHOUSES.

(a) It shall be unlawful for any person to carry or project into, possess within, or cause to be present within any Federal courthouse any firearm, dangerous weapon, explosive, or incendiary device.

(b) Any violation of subsection (a) of this section, or any attempt to commit any such violation, shall be a felony punishable by a fine not exceeding $5,000, or imprisonment not exceeding 5 years, or both.

(c) Any firearm, ammunition, dangerous weapon, explosive, or incendiary device involved in or used or intended to be used in any violation of the provisions of this section shall be subject to seizure and forfeiture in accordance with all applicable provisions of Federal law.

(d) Notice to the effect of subsections (a), (b), and (c) of this section shall be posted conspicuously by the United States Marshal at one or more public entrances to each Federal courthouse.

(e) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting or prohibiting the possession or carrying of weapons within any building, or upon the grounds appurtenant thereto, housing such court or any of its proceedings.

(f) Nothing contained in this section shall be deemed to prohibit or render unlawful any act performed in the lawful discharge of the official duties of a law enforcement officer of the Federal Government or any State or political subdivision thereof.

(g) DEFINITIONS.—As used in this section—

(1) The term "dangerous weapon" includes all articles enumerated and included within the definition of "dangerous weapon" set forth in section 16(a) of the Act of July 31, 1946 (40 U.S.C. 193m).

(2) The term "explosive" shall have the same meaning as when used in section 841 of title 18, United States Code.

(3) The term "Federal courthouse" means a building which houses a court of the United States or is the site of a proceeding before a judge or court of the United States, a United States Magistrate, a bankruptcy judge, or a Federal grand jury.

(4) The term "firearm" shall have the same meaning as when used in section 921(a)(3) of title 18, United States Code.

SEC. 199B. SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.

Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"SEC. 4013. SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.

"(a) The Attorney General or his designee, in support of United States prisoners in non-Federal institutions, is authorized to make payments from appropriations available to the United States Marshals Service, without limitation as to fiscal year, for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

"(3) payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive;

"(4) the housing, care and security of persons held in custody of the U.S. Marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

"(5) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system, in accordance with regulations issued by the Attorney General and which are comparable to the regulations issued under section 4006 of this title, except that amounts made available for this purpose shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population: *And provided further,* That the availability of such federally assisted facility shall be assured for housing Federal prisoners and the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement."

TITLE II—INTERNATIONAL NARCOTICS CONTROL AND ASSISTANCE TO FOREIGN COUNTRIES

Subtitle A—International Drug Eradication Improvement Program

SEC. 201. DRUG SOURCE COUNTRY ERADICATION IMPROVEMENT ACT OF 1988.

(a) There is established within the Department of State under the Office of International Narcotics Matters an International Special Operations Drug Eradication Squadron (hereafter in this subtitle known as the "Squadron") to be deployed to increase the eradication of drugs in drug source countries.

(b) The purpose of the Squadron established in subsection (a) under this subtitle is—

(1) to provide special assistance to drug source countries who request drug eradication assistance from the United States; and

(2) to participate in joint international drug eradication operations in drug source countries where one or more of the participating nations have specifically requested the assistance of the United States in such operation.

(c) There is authorized to be appropriated for fiscal year 1989, $12,000,000 for the International Narcotics Matters program at the Department of State for the procurement of helicopters, fixed wing aircraft, other related equipment; operation and maintenance for such helicopters and aircraft; and salaries and expenses for fulltime personnel of the Squadron established in subsection (a) of this section: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his budget presented to the Congress on February 18, 1988, or appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989, or as authorized in section 230 of subtitle D of this title.

(d) The Secretary of State shall establish strict criteria guidelines and procedures which shall govern a decision by the United States to deploy the Squadron established under subsection (a) of this section in support of any drug source nation requesting the assistance of the United States Government in drug eradication operations. Such criteria shall include, but not limited to, the following:

(1) the level of cooperation offered by the drug source country to the United States in eradicating drugs, and conducting other drug enforcement operations;

(2) the record of unilateral action taken by the drug source country to eradicate drugs from their soil; and

(3) the evidence exhibited by such drug source country that it intends to maintain a continuing unilateral drug eradication program upon completion of the drug eradication operation deploying the Squadron established in subsection (a) of this section.

Subtitle B—International Narcotics Matters Improvement and Special Assistance Programs

SEC. 211. ECONOMIC ASSISTANCE INCENTIVE PROGRAM.

(a) There is established under the Agency for International Development (A.I.D.) a special economic assistance incentive grant program to provide direct, nonmilitary, economic assistance to drug source countries that meet specific, proscribed coca leaf, marijuana, and opium eradication goals during fiscal years 1989, 1990, and 1991.

(b) In order for a drug source country to be eligible for the special economic assistance grants authorized in subsection (a), such country must achieve a verifiable 15 percent reduction in the national coca leaf crop acreage, a verifiable 15 percent reduction in the national marijuana crop acreage, and a verifiable 15 percent reduction in the national opium crop acreage in the year preceding the first fiscal year for which such grant assistance is authorized, and a verifiable 40 percent reduction in the national coca leaf, marijuana, or opium crop acreage over the period of fiscal year 1989 to fiscal year 1991. Identification of total aggregate national coca leaf, marijuana, or opium acreage production during a given year, shall be determined by the Drug Enforcement Administration of the Department of Justice and shall serve as the baseline from which a country's drug eradication efforts shall be measured. The Drug Enforcement Administration shall also be tasked by the Attorney General of the United States to verify the eradication effort put forth by such drug source countries as the basis for determining whether or not such country has met the eligibility requirements for the economic assistance authorized in subsection (a). The Administrator of the Drug Enforcement Administration shall make his assessment of baseline drug production and his determinations of drug source country eligibility for economic assistance grants under subsection (a) in a timely fashion and consistent with the best available technology to determine both the baseline production levels from which the eradication effort of drug source countries shall be measured, and the verified eradication initiative taken by such drug source countries. Both the baseline production levels and the verification of drug eradication in drug source countries shall be reported to the appropriate committees of the Congress in a timely fashion.

(c) There is authorized to be appropriated to the Agency for International Development for each of the fiscal years

1989, 1990, and 1991, $200,000,000, such amounts to remain available until expended: *Provided*, That of this annual amount up to 5 percent per fiscal year may be used for administration of the grant program, including transfers to the Drug Enforcement Administration to cover their costs in implementing the program goals and objectives.

(d) The Comptroller General of the United States shall monitor the economic assistance incentive grant program established under subsection (a) and funded under subsection (c) of this section and report periodically to the Congress regarding the management of and allocation of grant funds under the program.

(e) At the start of fiscal year 1991, a panel consisting of the Attorney General of the United States or his designee; the Secretary of State; the Director of the Agency for International Development; and appropriate representatives of the House and Senate, designated by the Speaker of the House of Representatives and the Majority Leader of the Senate, respectively, shall be convened by the Director of the Agency for International Development to consider whether or not the economic assistance incentive grant program established in this section should be continued beyond fiscal year 1991 and if it is determined that the program should be continued, make legislative and administrative recommendations for improvements in the program, including proposed funding levels for the program in subsequent fiscal years.

Subtitle C—Amendments to Foreign Assistance Act of 1961, as Amended

SEC. 220. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

Subsection 481(h)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) In making the certification required by paragraph (2) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances significantly affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) as a matter of government policy, encourages or facilitates the production of distribution of illegal drugs;

"(E) consists of any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(F) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(G) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

The International Narcotics Control Strategy Report shall describe for each country listed under subparagraphs (D) through (G) the activities and identities of officials whose activities caused such country to be so listed.".

Subtitle D—International Narcotics Matters Authorization of Appropriations

SEC. 230. AUTHORIZATIONS OF APPROPRIATIONS.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)":

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $138,000,000 for fiscal year 1989 and $150,000,000 for fiscal year 1990.".

SEC. 231. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $500,000 of the funds made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 232. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to grant military assistance), $900,000 for each of the fiscal years 1989 and 1990 shall be made available to arm, for defensive purposes, aircraft used in narcotic control eradication or interdiction efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 233. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) Not less than $2,000,000 of the funds made available for each of the fiscal years 1989 and 1990 to carry out chapter 5 of part II of the Foreign Assistance Act (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts for countries in Latin America and the Caribbean; and

(2) the expenses of deploying, upon the request of the government of a foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individuals and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (relating to international narcotics control).

(c) Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 234. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales credits).".

(b) The amendment made by subsection (a) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

SEC. 235. ASSISTANCE FOR BOLIVIA.

For fiscal year 1989, assistance may be provided for Bolivia under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia has enacted legislation that will—

(1) establish its legal coca requirements,

(2) provide for the licensing of the number of hectares necessary to produce the legal requirement,

(3) make unlicensed coca production illegal, and

(4) make possession and distribution of coca leaf illegal (other than for licit purposes).

SEC. 236. ASSISTANCE FOR MEXICO.

(a) Of the amounts made available for each of the fiscal years 1989 and 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not more than $20,000,000 may be made available for Mexico.

(b) Of the funds allocated for assistance for Mexico for each of those fiscal years under that chapter, $1,000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico—

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar;

(2) has fully investigated the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior; and

(3) has brought to trial and is effectively prosecuting those responsible for those murders and those responsible for that detention and torture.

SEC. 237. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) The Congress directs the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) Of the amounts made available for each of the fiscal years 1989 and 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $5,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 238. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President $1,000,000 for each of the fiscal years 1989 and 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 239. DEVELOPMENT OF MODEL TREATIES AND COMPREHENSIVE ANTIDRUG LAWS.

The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive anti-narcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad. The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 240. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics related criminal activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961. At the end of each fiscal year, the President shall submit a report to the Congress of all such transfers during that fiscal year, including an estimate of the fair market value and physical condition of each item of property transferred.

SEC. 241. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;".

SEC. 242. INFORMATION FROM OTHER AGENCIES IN ANNUAL NARCOTICS CONTROL REPORTS.

Section 481(e)(3) of the Foreign Assistance Act of 1961 is amended by adding after subparagraph (D) the following:

"(E) A section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year.".

SEC. 243. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the second sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.".

SEC. 244. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(7) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

Subtitle E—Latin American Antidrug Strike Force

SEC. 250. SENSE OF THE CONGRESS.

It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member states of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member states of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational strike force intended to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States or through other bilateral or multilateral fora aimed at achieving agreement to establish and operate the Latin American Antidrug Strike Force; and

(6) sensitive to the legitimate concerns of other member states of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of this Strike Force, but believes that Strike Force personnel should be provided by those states facing the most serious threat from drug trafficking organizations.

SEC. 251. DEPARTMENT OF STATE.

(a) In the Office of Secretary of State, the position of Ambassador at Large and Coordinator for Western Hemisphere Antidrug Efforts is created. The Ambassador shall be appointed by the President, with the advice and consent of the Senate, and shall be the principal advisor to the Secretary regarding United States antidrug efforts in the Western Hemisphere.

(b)(1) The Ambassador at Large, under the direction of the Secretary of State, shall coordinate the efforts of all United States bureaus and agencies involved in antidrug efforts and subject to the authority of the Chief of Diplomatic Mission in all foreign states in the Western Hemisphere, with special emphasis on those activities which cross one or more national borders.

(2) The Ambassador shall from time to time report on the effectiveness of the operations of and the level of cooperation among these United States bureaus and agencies involved in antidrug efforts to the Secretary of State and to the Chairman of the National Drug Policy Board.

(3) The Ambassador at Large shall be a member of all interagency groups below the cabinet level with authority or oversight over United States international drug policy or operations.

(c)(1) The Ambassador at Large shall undertake, under the direction of the Secretary of State, diplomatic discussions with member states of the Organization of American States aimed at securing agreement to the formation of a multinational strike force intended to conduct operations against international illegal drug trafficking organizations wherever they may be found in the Western Hemisphere.

(2) The multinational strike force shall be established by treaty or executive agreement among the participating states.

(3) The Ambassador at Large shall seek to secure participation in the strike force by those Western Hemisphere states most threatened by international illegal drug trafficking organizations.

(4) Recognizing the urgency of the situation, efforts to obtain agreement to the establishment of the strike force should be the immediate focus of a priority effort by the Ambassador at Large.

(5) Not later than six months after the Ambassador at Large assumes office, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of the multinational strike force.

SEC. 252. DEPARTMENT OF DEFENSE.

(a)(1) The Secretary of Defense shall develop a plan for the establishment, training, equipping, and operation of a multinational strike force for operations against international drug trafficking organizations wherever they are found outside the United States and its territories in the Western Hemisphere.

(2) The Joint Chiefs of Staff, in consultation with the Commander, United States Southern Command, shall develop a table of organization and equipment for a multinational strike force sized and equipped to deal with any combination of armed resistance any Western Hemisphere international illegal drug trafficking organization could offer to any combination of drug eradication, drug interdiction, or criminal apprehension operations the strike force could be called upon to undertake anywhere in the Western Hemisphere.

(3) For planning purposes, the multinational strike force shall be equipped entirely with United States-produced military or commercially available equipment.

(4) The Joint Chiefs of Staff shall develop a plan for employment of this strike force to eradicate the major coca and marijuana crop concentrations in the Western Hemisphere, to interdict the major international transportation corridors through which the illegal drug traffic moves, and to arrest the members of the major international drug trafficking organizations involved in producing, transporting, and distributing illegal drugs in the Western Hemisphere, as part of coordinated operations designed to drastically and immediately reduce the supply of cocaine, opium, and marijuana on the international market.

(b)(1) The Secretary of Defense shall develop budget-quality estimates of the cost of establishing, equipping, training, and operating the strike force planned for under subsection (a) above for the balance of fiscal year 1989; for fiscal year 1990; and for fiscal year 1991.

(2) The Secretary of Defense shall identify equipment and supplies in the United States inventory which can be provided to this strike force pursuant to the table of organization and equipment developed by the Joint Chiefs of Staff under subsection (a) above.

(3) The Secretary of Defense shall identify training resources in the United States which will be necessary to properly train the strike force, shall develop schedules for training the national strike force developed by the Joint Chiefs of Staff under subsection (a) above, and shall develop cost estimates for transporting, training, and housing strike force personnel and their dependents in conjunction with their training.

(4) The cost estimates and plans developed under section 252 of this subtitle shall be provided to the Committees on the Budget, the Committees on Armed Services and the Committees on Appropriations, of the Senate and the House of Representatives, and the Select Committee on Narcotics Abuse and Control of the House of Representatives, and the

Senate International Narcotics Control Caucus not later than ninety days after the enactment of this subtitle into law.

(c) The Assistant Secretary of Defense for International Security Affairs shall develop a plan for funding and supporting the multinational strike force developed under subsection (a) through the Defense Security Assistance Agency.

(d) Within 120 days of enactment of this Act, the President of the United States shall submit to Congress a supplemental budget request for the fiscal year ending September 30, 1989, covering the cost of operation and maintenance of the Latin American Strike Force established in this subtitle for the balance of the fiscal year: *Provided further*, That such supplemental budget request shall be consistent with the cost estimates mandated under subsection (b)(1) of section 252 of this subtitle.

TITLE III—DRUG INTERDICTION ASSET IMPROVEMENT AND ENHANCEMENT

SEC. 301. SHORT TITLE.

This title may be cited as the "National Drug Interdiction Asset Improvement and Enhancement Act of 1988".

Subtitle A—Coast Guard

SEC. 310. COAST GUARD DRUG INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Acquisition, Construction, and Improvement expenses of the Coast Guard for fiscal year 1989, $186,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriation authorized under this subtitle shall be allocated only for procurement of marine and air drug interdiction assets, including long-range surveillance aircraft, and operation and maintenance expenses of the Coast Guard.

Subtitle B—United States Customs Service

SEC. 320. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ENHANCEMENT.

(a) There is authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $110,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be available for the procurement of helicopters; air detection, tracking, and interceptor aircraft; command, control, communications, and intelligence

(C3I) upgrades for joint Customs-Coast Guard and other C3I centers under construction; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program.

(b) There is authorized to be appropriated for salaries and expenses for fiscal year 1989, $15,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for the procurement, operation, and maintenance of marine interdiction vessels, and joint command centers, evaluations of new marine detection technologies, and other marine interdiction assets of the United States Customs Service.

Subtitle C—Department of Defense Drug Interdiction Assistance

SEC. 330. SHORT TITLE.

This subtitle may be cited as the "Department of Defense Drug Interdiction Assistance Act of 1988".

SEC. 331. AUTHORIZATION.

(a) Funds are hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 for enhancement of drug interdiction assistance activities of the Department as follows:

(1) for procurement of four radar aerostats, $75,000,000;

(2) for operation and maintenance of E-2C, E-3, and other aircraft surveillance; detection; and flight hour support for drug interdiction purposes only, $15,000,000; and

(3) for operation, maintenance, refurbishment, and support of existing surplus Department of Defense aircraft, helicopters, and other assets to be used to support requests for assistance by cooperating, drug source countries, as outlined in title II, subtitle E of this Act, $10,000,000.

(b) The funds authorized to be appropriated in subsection (a) of this section shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(c)(1) The Secretary of Defense shall make the radar aerostats acquired under subsection (a)(1) available to the appropriate Federal law enforcement agency or agencies of the United States, as designated by the National Drug Policy Board established by the National Narcotics Act of 1984.

(2) The radar aerostats shall be made available to agencies under this subsection subject to the provisions of chapter 18 of title 10, United States Code.

Subtitle D—Drug Enforcement Administration

SEC. 341. DRUG ENFORCEMENT ADMINISTRATION INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Drug Enforcement Administration for fiscal year 1989, $48,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for the establishment of an International Drug Interdiction helicopter force within the Drug Enforcement Administration to be utilized in joint drug interdiction operations, similar in scope and design to OPBAT, in the Bahamas and other drug source and transhipment countries that have authorized the use of joint operations featuring United States and host country law enforcement personnel in such countries for drug interdiction purposes: *Provided,* That the Administrator of the Drug Enforcement Administration shall coordinate the establishment and deployment of this International Drug Interdiction helicopter force with the Secretary of State; the Attorney General of the United States; the Secretary of the Treasury, the Secretary of Transportation, and any other law enforcement agencies of the United States with ongoing drug interdiction programs: *Provided further,* That of the appropriation authorized under this subsection, $4,000,000 shall be allocated for the enhancement of the El Paso Intelligence Center (EPIC) to provide more tactical intelligence to the Drug Enforcement Administration and all other United States drug enforcement and interdiction agencies.

Subtitle E—Immigration and Naturalization Service/Border Patrol

SEC. 351. BORDER PATROL DRUG INTERDICTION ENHANCEMENT.

There is authorized to be appropriated for Salaries and Expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $10,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for procurement of drug interdiction-related equipment for Border

Patrol drug enforcement personnel and for related operation and maintenance expenses.

Subtitle F—Establishment of Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

(a) There is established an Interagency Southwest Border Drug Interdiction Mobile Corridor Task Force, consisting of drug enforcement officers of the United States Border Patrol, United States Customs Service, and the United States Drug Enforcement Administration. Such interagency task force shall consist of 100 full-time positions of the United States Border Patrol; 25 full-time positions of the United States Customs Service; and 25 full-time positions of the United States Drug Enforcement Administration.

(b) The full-time positions identified in subsection (a) shall be used to establish 2 mobile corridor operations units to be deployed along the southwest border between the ports of entry.

(c) The purpose of the task force established in subsection (a) of this section is—

(1) to conduct joint drug interdiction operations between the ports of entry along the southwest border of the United States, from Texas to California;

(2) to assist and augment other law enforcement agencies personnel along the southwest border in the interdiction of illegal drugs and arrest of narcotics traffickers; and

(3) to assist State and local law enforcement officials along the southwest border of the United States in the interdiction of illegal drugs and the arrest of narcotics traffickers.

(d) There is authorized to be appropriated for fiscal year 1989, $15,000,000 to the Department of Justice for the salaries and expenses of the task force established in subsection (a) of this section, including reimbursement for expenses incurred by State and local law enforcement agencies in joint operations conducted with the task force. Such amount authorized to be appropriated shall be in addition to any appropriations provided for the United States Customs Service and the United States Border Patrol, and the Drug Enforcement Administration in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989, or as authorized in this Act.

(e) The Secretary of the Treasury, the Attorney General of the United States, or their designees, shall establish a joint command structure necessary to assure complete cooperation and coordination in carrying out the duties and mission of the task force established by this section.

(f) The joint commanders of the task force established under this section shall make regular written reports to the appropriate committees of the Congress regarding the specific operations and expenditures of the task force.

Subtitle G—United States-Bahamas Drug Interdiction Task Force

SEC. 362. REAUTHORIZATION OF UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE PROGRAMS.

(a) There is authorized to be appropriated for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) for fiscal year 1989, in addition to any other amounts authorized to be appropriated in this title, $13,000,000 for the following:

(1) $11,000,000 for procurement, operation, and maintenance of additional marine interdiction vessels;

(2) $1,000,000 for improvement of communications, command and control, and intelligence capabilities for the Task Force; and

(3) $1,000,000 to increase drug enforcement training for Bahamian law enforcement personnel.

(b) The Attorney General of the United States shall continue to report to the appropriate committees of Congress on a quarterly basis regarding the progress of the United States-Bahamas Drug Interdiction Task Force.

(c) Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.

Subtitle H—Special Drug Interdiction Support

SEC. 372. SPECIAL ASSISTANCE TO PUERTO RICO.

There is authorized to be appropriated to the Government of Puerto Rico, through the Department of the Treasury, "Payment to the Government of Puerto Rico" grant program for fiscal year 1989, $7,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used for the procurement of air and marine drug interdiction aircraft; vessels; and for related drug interdiction operation and maintenance purposes.

SEC. 373. SPECIAL ASSISTANCE TO JAMAICA.

There is authorized to be appropriated to the Government of Jamaica, through existing or new grant mechanisms under the authority of the Secretary of State for fiscal year 1989, $7,000,000: *Provided*, That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used for the procurement of air and marine drug interdiction equipment, including radar, and for related drug interdiction operation and maintenance purposes.

SEC. 374. SPECIAL ASSISTANCE TO THE DOMINICAN REPUBLIC.

There is authorized to be appropriated to the Government of the Dominican Republic for fiscal year 1989, through existing or new grant mechanisms under the authority of the Secretary of State, $5,000,000: *Provided,* That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for the procurement of air and marine drug interdiction equipment, including radar, and for related drug interdiction operation and maintenance purposes.

SEC. 375. SPECIAL ASSISTANCE TO HAWAII.

There is authorized to be appropriated through the Drug Enforcement Administration to the State of Hawaii for fiscal year 1989, $7,000,000: *Provided,* That such amount shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for the procurement of air and marine drug interdiction and eradication equipment, including aircraft and radar, and for related drug interdiction and eradication operation and maintenance purposes.

SEC. 376. REPORTING REQUIREMENTS FOR RECIPIENTS OF SPECIAL ASSISTANCE SUPPORT.

The Federal departments or agencies providing grants for special drug interdiction assistance authorized under this subtitle shall make periodic written reports to the appropriate committees of Congress regarding the status of the procurement of resources and related operation and maintenance expenditures authorized under this subtitle.

TITLE IV—DEMAND REDUCTION

Subtitle A—Treatment and Rehabilitation

SEC. 401. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

(a) Section 516(a)(1) of the Public Health Service Act (42 U.S.C. 290cc–1) is amended (1) by striking out "and" at the end of clause (A); (2) by striking out the semicolon and the word "and" at the end of clause (B) and inserting in lieu thereof a comma and the word "and"; and (3) by inserting immediately after clause (B) the following:

"(C) the treatment and rehabilitation of drug dependent offenders who could otherwise be subject to incarceration; and".

(b) Section 516(b) of such Act is amended by inserting immediately before the period at the end thereof the following: "or mental illness".

(c) Section 516(c) of such Act is amended by striking out "No" and inserting in lieu thereof "Except in the case of grants pursuant to subsection (a)(1)(C), no".

(d) Section 516 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) For purposes of subsection (a)(1)(C), grants or contracts awarded pursuant thereto shall emphasize the development, improvement or expansion of community based residential treatment services such as therapeutic communities and halfway houses and other programs which can provide treatment alternatives to incarceration.

"(2) Such grants or contracts may include funds to purchase or improve land, and to purchase, construct or permanently improve any building or other facility.

"(3) For purposes of this subsection, the term 'therapeutic community' means a stratified community composed of peer groups offering a systematic approach to achieve its main rehabilitative objective, which is guided by an explicit perspective on the drug abuse disorder, the client, and recovery.".

(e) Section 517 of such Act is amended by designating the existing text thereof as subsection (a) and adding at the end thereof the following new subsection:

"(b) There is authorized to be appropriated to carry out subsection (a)(1)(C) of this section, $20,000,000 for each of the fiscal years 1989, 1990, and 1991.".

Subtitle B—Alcohol and Drug Abuse Treatment and Rehabilitation

SEC. 410. SHORT TITLE REFERENCE.

This subtitle may be cited as the "Alcohol and Drug Abuse Treatment and Rehabilitation Improvement Act of 1988".

SEC. 411. AUTHORIZATION OF APPROPRIATIONS FOR ALCOHOL AND DRUG ABUSE TREATMENT, FISCAL YEAR 1989, FISCAL YEAR 1990, FISCAL YEAR 1991.

(a) There is authorized to be appropriated $558,860,000 for the basic Alcohol, Drug Abuse and Mental Health Bloc Grant Program as contained in part B of title 19 of the Public Health Services Act (42 U.S.C. 300x, et seq.), for the fiscal year ending September 30, 1989: *Provided*, That of this amount no less than 49 per centum shall be available for alcohol and drug abuse programs.

(b) There is authorized to be appropriated $600,000,000 for substance abuse emergency drug treatment programs for the fiscal year ending September 30, 1989: *Provided*, That these emergency substance abuse drug treatment funds shall be targeted to those States and communities where the substance abuse problem is most acute, based on the best available data of the Alcohol, Drug Abuse, Mental Health Administration (ADAMHA).

(c) For the fiscal year ending September 30, 1990, there is authorized to be appropriated $583,000,000 for the basic Alcohol, Drug Abuse, and Mental Health Bloc Grant Program as contained in part B of title 19 of the Public Health Services Act (42 U.S.C. 300x, et seq.): *Provided*, That of this amount no less than 49 per centum shall be made available for alcohol and drug abuse treatment and rehabilitation programs.

(d) For the fiscal year ending September 30, 1990, there is authorized to be appropriated $625,000,000 for Substance Abuse Emergency Drug Treatment Programs as contained in part C of title 19 of the Public Health Services Act (42 U.S.C. 300y): *Provided*, That these emergency substance abuse drug treatment funds shall be targeted to those States and communities within those States where the substance abuse problem is most acute, based on the best available data of the Alcohol, Drug Abuse, Mental Health Administration (ADAMHA) for the most recent calendar year.

(e) For the fiscal year ending September 30, 1991, there is authorized to be appropriated, $608,000,000 for such basic Alcohol, Drug Abuse and Mental Health Bloc Grant Program: *Provided*, That of this amount no less than 49 per centum shall be made available for alcohol and drug abuse treatment and rehabilitation programs.

(f) For the fiscal year ending September 30, 1991, there is authorized to be appropriated, $650,000,000 for such Substance Abuse Emergency Drug Treatment Programs: *Provided*, That these emergency substance abuse drug treatment funds shall be targeted to those States, and communities within those States, where the substance abuse problem is most acute, based on the best available data of the Alcohol, Drug Abuse, Mental Health Administration (ADAMHA) for the most recent calendar year.

SEC. 412. REQUIREMENT FOR STATES TO DEVELOP STATEWIDE SUBSTANCE ABUSE TREATMENT FACILITIES PLANS.

All States eligible to receive basic and emergency Alcohol, Drug Abuse, Mental Health Administration bloc grants shall develop Statewide substance abuse treatment facilities plans and are hereby authorized to expend up to 1.5 percent of their basic and emergency bloc grant allocations for the development and preparation of such Statewide plans.

SEC. 413. AUTHORIZATION FOR USE OF BLOC GRANT FUNDS FOR ACQUISITION, CONSTRUCTION, AND/OR RENOVATION OF DRUG TREATMENT AND REHABILITATION FACILITIES.

Any State eligible to receive such basic and emergency bloc grants referred to in section 412 is authorized to use up to 40 per centum of its basic and emergency bloc grant allocations for the acquisition, construction, or renovation of substance abuse treatment facilities determined to be needed in such State as identified in the Statewide substance abuse treatment facilities plans required under section 412 of this subtitle.

Subtitle C—Amendments to the Drug-Free Schools and Communities Act

SEC. 421. DRUG-FREE SCHOOLS REAUTHORIZATION.

Section 4111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this title referred to as the "Act") is amended to read as follows:

"(a) There are authorized to be appropriated $250,000,000 for fiscal year 1988, $300,000,000 for fiscal year 1989, $350,000,000 for fiscal year 1990, and $350,000,000 for fiscal year 1991 to carry out the provisions of this Act.".

SEC. 422. STATE PROGRAM—LOCAL ALLOTMENTS.

The second sentence of section 4124(a) of the Act is amended by striking out "the relative numbers of children in the school-age population within such areas" and inserting in lieu thereof "the relative enrollments in public and private, nonprofit schools within the areas served by such agencies".

SEC. 423. STATE PROGRAM—PARTICIPATION OF TEACHERS IN PRIVATE NONPROFIT SCHOOLS.

Section 4143(b) of the Act is amended by striking out "State, State educational agency, or State agency for higher education" and inserting in lieu thereof "State, agency, or consortium".

SEC. 424. STATE PROGRAM—LOCAL APPLICATIONS.

Section 4126(a)(2) of the Act is amended—

(1) by redesignating subparagraphs (D) through (J) as subparagraphs (G) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(b) Section 4126 of the Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

SEC. 425. STATE PROGRAM—REPORTS.

Part 2 of the Act is amended by adding at the end thereof the following new section:

"SEC. 4127. STATE REPORTS.

"Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

SEC. 426. NATIONAL PROGRAMS—GRANTS AND CONTRACTS.

(a) The third sentence of section 4132(b) of the Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(b) Section 4134(a) of the Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(c) Section 4135 of the Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

SEC. 427. EVALUATION.

Section 4132(d) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

SEC. 428. GOVERNOR'S PROGRAM—ADMINISTRATIVE COSTS.

Section 4122 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Not more than 2.5 percent of the amount reserved under section 4121(a) shall be available to pay for the administrative costs of the chief executive officer in meeting his or her responsibilities under this part.".

SEC. 429. GOVERNOR'S PROGRAM—HIGH RISK YOUTH.

Section 4122(b)(1) of the Act is amended—

(1) in the first sentence therein by inserting "that are designed" immediately before "for high risk youth."; and

(2) by adding immediately after the first sentence therein the following new sentence: "A small number of individuals who are not high risk youth may participate in such programs if their participation does not significantly diminish the amount or quality of services provided to high risk youth.".

SEC. 430. LOCAL PROGRAMS—DRUG TREATMENT.

Section 4125(a)(5) of the Act is amended to read as follows:

"(5) referral programs for drug abuse treatment and rehabilitation;".

SEC. 431. EFFECTIVE DATE.

(a) The provisions of this subtitle shall take effect 30 days from the date of enactment of this Act.

(b) Notwithstanding subsection (a), a State educational agency may allot fiscal year 1989 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative numbers of children in the school-aged population.

TITLE V—NATIONAL DRUG ENFORCEMENT AGENCY REORGANIZATION AND COORDINATION

Subtitle A—Establishment of Office of Enforcement and Border Affairs in Department of Treasury

SEC. 501. SHORT TITLE.

This title may be cited as the "National Border Coordination and Reorganization Act of 1988".

SEC. 502. DEFINITIONS.

As used in this title—

(1) the term "Office" means the Office of Enforcement and Border Affairs of the Department of the Treasury established by part A of this title;

(2) the term "Commandant" means the Commandant of the Coast Guard;

(3) the term "Secretary" means the Secretary of the Treasury;

(4) the term "Under Secretary" means the Under Secretary of the Treasury for Enforcement and Border Affairs appointed under section 5102(a); and

(5) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

PART A—ESTABLISHMENT AND OFFICERS

SEC. 503. ESTABLISHMENT OF OFFICE.

There is established within the Department of the Treasury an office to be known as the Office of Enforcement and Border Affairs, which shall consist of—

(1) the office in the Department of the Treasury known on the day before the date of the enactment of this Act as the Office of the Assistant Secretary of the Treasury for Enforcement; and

(2) the Coast Guard, as transferred by section 508.

SEC. 504. UNDER SECRETARY FOR ENFORCEMENT AND BORDER AFFAIRS.

(a) The head of the Office of Enforcement and Border Affairs established by section 503 shall be the Under Secretary of the Treasury for Enforcement and Border Affairs, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate; and

(2) report directly to the Secretary of the Treasury.

(b) The Under Secretary shall be paid at the rate of basic pay payable for level III of the Executive Schedule.

SEC. 505. OFFICE OF BORDER MANAGEMENT AFFAIRS.

(a) There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Border Management Affairs.

(b)(1) The head of the Office of Border Management Affairs shall be the Assistant Secretary of the Treasury for Border Management Affairs, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Border Management Affairs shall be responsible for overseeing all activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs, other than activities relating directly to narcotics interdiction.

(3) The Assistant Secretary of the Treasury for Border Management Affairs shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 506. OFFICE OF NARCOTICS INTERDICTION.

(a) There shall be within the Office of Enforcement and Border Affairs an office to be known as the Office of Narcotics Interdiction.

(b)(1) The head of the Office of Narcotics Interdiction shall be the Assistant Secretary of the Treasury for Narcotics Interdiction, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate; and

(B) report directly and be responsible to the Under Secretary.

(2) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be responsible for overseeing all narcotics interdiction activities of agencies and personnel under the jurisdiction of the Office of Enforcement and Border Affairs.

(3) The Assistant Secretary of the Treasury for Narcotics Interdiction shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 507. CONFORMING AMENDMENTS.

(a) Section 301(e) of title 31, United States Code, is amended by striking "7" the first place that number appears and inserting in lieu thereof "9".

(b) Section 5314 of title 5, United States Code, is amended by inserting after "Under Secretary of the Treasury (or Counselor)." the following:

"Under Secretary of the Treasury for Enforcement and Border Affairs.".

(c) Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of the Treasury (7)" and inserting in lieu thereof the following:

"Assistant Secretaries of the Treasury (9).".

PART B—TRANSFER OF COAST GUARD TO OFFICE OF ENFORCEMENT AND BORDER AFFAIRS

SEC. 508. TRANSFER OF COAST GUARD.

(a) With respect to operation of the Coast Guard other than as a service in the Navy, the Coast Guard is transferred from the Department of Transportation to the Office of Enforcement and Border Affairs of the Department of the Treasury.

(b) Nothing in this title shall be considered to affect—

(1) the operation of the Coast Guard as a service in the Navy; or

(2) the respective duties, with respect to the Coast Guard, of the Secretary of Defense and the Secretary of the Navy.

SEC. 509. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) The civilian personnel of the Department of Transportation employed in connection with the Coast Guard, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Transportation in connection with the Coast Guard and the functions and offices transferred by this part, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Office for appropriate allocation by the

Secretary. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b)(1) The transfer under this part of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Office.

(2) Any person who, on the day preceding the effective date of this part, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c)(1) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, shall make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this part, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out this part.

(2) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget may, at such time as the Director of the Office of Management and Budget provides, make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this part.

SEC. 510. SAVINGS PROVISIONS.

(a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, the Commandant, any Federal entity or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this part, and

(2) which are in effect at the time this part takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Commandant, the

Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) This part shall not affect any proceeding, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this part before any Federal entity and applications, to the extent that they relate to functions transferred under this part, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Commandant, the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this part had not been enacted.

(2) The Secretary may promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Office.

(c) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this part, shall abate by reason of the enactment of this part. No cause of action by or against any department or agency, functions of which are transferred by this part, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this part.

(d)(1) Except as provided in paragraph (2)—

(A) this part shall not affect suits commenced before the effective date of this part, and

(B) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this part had not been enacted.

(2) If, before the date on which this part takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this part any function of such department, agency, or officer is transferred, then such suit shall be continued with the Secretary or other appropriate official of the Office substituted or added as a party.

(e) Orders and actions of the Commandant and the Secretary in the exercise of functions transferred under this part shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer.

(f) Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this part shall apply to the exercise of such function by the Commandant or the Secretary.

SEC. 511. REFERENCE.

With respect to any function transferred by this part and exercised on or after the effective date of this part, reference in any other Federal law to the Secretary of Transportation shall be deemed to refer to the Secretary of the Treasury.

SEC. 512. TRANSITION.

With the consent of the Secretary of Transportation, the Commandant and the Secretary may use the services of such officers, employees, and other personnel of the agencies or offices from which functions or offices have been transferred and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this part.

SEC. 513. BUDGET FUNCTIONAL CATEGORY FOR COAST GUARD.

(a) PRESIDENT'S BUDGET.—For fiscal years beginning with the fiscal year 1990, the President shall, in accordance with section 1104(c) of title 31, United States Code, include the Coast Guard (including all accounts funding the operations and activities of the Coast Guard) within functional category 750 for purposes of the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code.

(b) BUDGET RESOLUTION.—Any concurrent resolution on the budget considered under title III of the Congressional Budget Act of 1974 for fiscal years beginning with fiscal year 1989 shall use functional category 750 established by the President under subsection (a) in specifying the appropriate level of new budget authority and budget outlays for the Coast Guard.

SEC. 514. EFFECTIVE DATE.

This part shall take effect 30 days from the date of enactment of this Act.

Subtitle B—Department of Defense Drug Interdiction Reorganization

SEC. 520. DRUG INTERDICTION SUPPORT.

(a) Section 136 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(e) Within the Office of the Assistant Secretary of Defense for International Security Affairs there shall be a Deputy Assistant Secretary of Defense for International Drug Interdiction and Enforcement who shall be appointed from civilian life by the President, with the advice and consent of the Senate. Subject to the supervision and control of the Assistant Secretary of Defense for International Security

Affairs, the Deputy Assistant Secretary shall have as his principal duty the overall supervision (including oversight of policy and resources) of Department of Defense drug interdiction and enforcement activities (as defined in section 381 of this title).".

(b) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 381. Drug interdiction and enforcement activities: definition

"Department of Defense drug interdiction and enforcement activities are those activities conducted in cooperation with civilian law enforcement officials under the provisions of sections 371–379, inclusive, of title 10, United States Code."

(c) The table of sections at the beginning of chapter 18, of title 10, United States Code, is amended by adding at the end the following:

"381. Drug interdiction and enforcement activities; definition."

TITLE VI—RESEARCH AND DEVELOPMENT FOR LAW ENFORCEMENT AGENCIES

Subtitle A—Establishment of New Research and Development Programs to Assist Federal Law Enforcement Agencies

SEC. 601. ESTABLISHMENT OF A RESEARCH AND TECHNOLOGY GROUP UNDER THE NATIONAL DRUG POLICY BOARD.

(a) The Attorney General of the United States shall establish a Research and Technology Group under the National Drug Policy Board. Such group shall be responsible for reviewing the research, development, technology, and evaluation (R, D, T, & E) programs of the Department of Defense and the research and development programs of other nondefense Federal agencies to assess their applicability to the operations, programs, and missions of the Federal law enforcement agencies. Such group shall consist of members of the Department of the Treasury, Department of Transportation, Department of Justice, Department of Defense, and other appropriate Departments and agencies, at the Assistant Secretary level.

(b) The Attorney General shall appoint an Executive Director of the group established by subsection (a), with responsibility for the daily operations of the group and for such other purposes as may be determined by the Attorney General to assure the effective operation of the group.

(c) The Attorney General shall establish a Research, Technology and Acquisition Advisory Board, reporting to the Research and Technology Group established in subsection (a) of this section, and shall be composed of representatives from academia, private industry, and agencies of the United States. The Advisory Board shall make recommendations to the National Drug Policy Board through the Research and Technology Group, including, but not limited to recommendations of how existing and new research and development findings can be applied to the missions of Federal law enforcement agencies; potential program options for such Federal law enforcement agencies; and funding alternatives developed from reviews of technology bases, ongoing programs, operational needs and special studies assigned by the National Drug Policy Board. The Advisory Board shall also be directed by the Attorney General to serve as an advocacy group for the efforts of the new National Technology Development Centers established in section 602 of this subtitle, including, but not limited to, support for enhanced funding for the Centers.

(d) The Attorney General shall designate a Chairman of the Research and Technology Group established in subsection (a) and conduct an election of a Chairman of the Research, Technology and Acquisition Advisory Board from among the members of such Advisory Board, within 30 days of formation of the Advisory Board.

SEC. 602. ESTABLISHMENT OF NATIONAL TECHNOLOGY DEVELOPMENT CENTERS.

(a) The President of the United States shall designate and establish within existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, no fewer than eight, new "National Technology Development Centers" to develop technologies for application to Federal law enforcement agency missions. Such National Centers shall provide research, development, technology and evaluation (R, D, T, & E) support to the parent agency or department and the law enforcement agencies of the Federal Government.

(b) The following existing United States Government facilities shall be redesignated as "National Technology Development Centers":

(1) For night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) For ground sensor research and development—Department of Defense, Army Materiel Com-

mand, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) For physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) For imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, D.C.;

(5) For chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) For chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) For physical/electronic surveillance and tracking, research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, D.C.; and

(8) For explosives ordnance detection research and development—Department of Defense, Naval Ordnance Station, Indian Head, Maryland.

(c) The President shall direct the appropriate department or agency head to revise the statutory charter of each of such redesignated National Centers and submit appropriate recommendations for legislation, if necessary, to the Congress to implement the designation of such National Technology Development Centers by no later than the end of the fiscal year ending September 30, 1989. The President shall direct the Director of the Office of Management and Budget to prepare a supplemental budget request to be submitted to Congress no later than 90 days from the date of the enactment of this Act, to fund the appropriate initial salaries and expenses required for each of the eight new Centers established in subsection (b) of this section for the fiscal year ending September 30, 1989.

(d)(1) The president shall direct each of the Federal law enforcement agencies of the Government to assign at least two technology advisors within such agencies, to serve as liaison officers to the new National Technology Development Centers.

(2) Each Federal law enforcement agency shall assign sufficient fulltime positions to the National Technology Development Centers that meet that particular agency's mission requirements, including support staff to enhance that agency's contribution to the Centers.

(e) Beginning in the fiscal year ending September 30, 1990, no less than .002 of the aggregate research, development, technology, and evaluation (R, D, T, & E) budget of the Department of Defense and the service branches of the Armed Forces of the United States shall be made available to support the research and development activities conducted at the new National Technology Development Centers for the Federal law enforcement agencies.

(f) Beginning in the fiscal year ending September 30, 1991, a separate line item budget account shall be established and maintained for each of the eight designated National Technology Development Centers designated by this subtitle.

(g) The Comptroller General of the United States shall monitor the establishment of the National Technology Development Centers as authorized and mandated in this section, and shall report periodically to the appropriate Committees of Congress on the progress of the implementation of these newly designated Centers.

Subtitle B—Cargo Container Drug Detection Research and Development

SEC. 603. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

(a) There is authorized to be appropriated to the United States Customs Service for fiscal year 1989, $5,000,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for accelerating the development and availability of X-ray detection, nitrate detection, or other technologies to be utilized for the detection of illegal narcotics in cargo containers entering the United States at seaports, airports, and land borders.

(b) The Commissioner of Customs shall coordinate and share the findings of the research and development authorized in subsection (a) with other Federal departments and agencies with possible mission requirements for such technology, including, but not limited to the Federal Aviation Administration and U.S. Coast Guard in the Department of Transportation; the Drug Enforcement Administration in the Department of Justice; and the appropriate State, and local law enforcement agencies, including airport authorities, port authorities, and other interested parties.

(c) The Commissioner of Customs shall report his findings in either classified, or unclassified form, to the appropriate Committees of Congress in conjunction with the President's submission of his fiscal year 1990 Budget of the United States.

TITLE VII—DRUG ENFORCEMENT TRAINING IMPROVEMENT

Subtitle A—The Federal Law Enforcement Training Center Improvement Act of 1988

SEC. 701. SHORT TITLE; AUTHORIZATION OF APPROPRIATIONS.

(a) This subtitle may be cited as the "Federal Law Enforcement Training Center Improvement Act of 1988".

(b) There is authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center for fiscal year 1989, $10,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used by the Center to increase the level of drug enforcement training, including basic and advanced training, for Federal, State, and local law enforcement officers: *Provided further*, That, on a space available, cost reimbursable basis, the Center shall, to the extent practical, increase the level of training for drug enforcement officers from foreign countries that are cooperating with the law enforcement agencies of the United States Government.

(c) There are authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center, $45,000,000 for the fiscal year ending September 30, 1990, and $50,000,000 for the fiscal year ending September 30, 1991: *Provided*, That in each fiscal year addressed in this subsection, support for the State and local law enforcement training program and the training programs for drug enforcement officers from foreign countries shall be maintained at no less than the level of support in the fiscal year ending September 30, 1989.

(d) The Secretary of the Treasury is directed to expand the advanced training programs for Federal law enforcement agencies at the Marana, Arizona, satellite facility of the Federal Law Enforcement Training Center, within the total amount of appropriations authorized for fiscal years 1989, 1990, and 1991.

(e) The Secretary of the Treasury is directed to report in writing to the appropriate committees of the Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the increased training activities at the Federal Law Enforcement Training Center facilities to be funded with the additional appropriations authorized in subsection (b) of this section, and the authorized level of appropriations contained in subsection (c).

Subtitle B—Department of Justice Training Facilities Improvement Act of 1988

SEC. 702. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR IMPROVEMENT AND EXPANSION OF DEPARTMENT OF JUSTICE LAW ENFORCEMENT TRAINING FACILITIES.

(a) This subtitle may be cited as the "Department of Justice Training Facilities Improvement Act of 1988".

(b) There is authorized to be appropriated for the existing law enforcement training facilities of the Department of Justice for fiscal year 1989, $10,000,000: *Provided*, That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That such additional appropriation shall be used only for improvement of those facilities that are normally utilized for drug enforcement training activities.

(c) There is authorized to be appropriated for the expansion of law enforcement training facilities of the Department of Justice and for new training facilities of the Department of

Justice for fiscal year 1989, $10,000,000: *Provided*, That such expanded or new training facilities shall be primarily for basic and advanced training of drug enforcement personnel of the Department of Justice.

(d) The Attorney General of the United States is directed to report in writing to the appropriate committees of Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the training facility improvements authorized in subsections (b) and (c).

Subtitle C—Federal Law Enforcement Language Training Improvement Act of 1988

SEC. 703. FOREIGN LANGUAGE TRAINING.

(a) The Department of Defense is authorized to provide, on a cost reimburseable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) The Department of State is authorized to provide, on a cost reimburseable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(c) The Drug Enforcement Agency is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(d) The Customs Service is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute, or both; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(e) The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $5,000,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $5,000,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $1,000,000.

(g) Moneys appropriated pursuant to this section shall remain available until expended.

(h) Moneys appropriated pursuant to this section shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

Subtitle D—Authorization of Appropriations for Special Training Centers

SEC. 704. ESTABLISHMENT OF NATIONAL TRAINING CENTER IN EL RENO, OKLAHOMA.

(a)(1) The Director of the Bureau of Justice Assistance (hereinafter in this section referred to as the "Director"), in consultation with the panel established under subsection (b), shall establish and operate a national training center in El Reno, Oklahoma, for the training of Federal, State, and local prison officials in the conduct of drug rehabilitation programs for criminals convicted of drug-related crimes and criminals who have drug dependencies.

(2) Programs conducted at the national training center established under this subsection—

(A) shall include training of correctional officers, administrative staff, and correctional mental health professionals (including subcontracting agency personnel); and

(B) may include programs suggested by the panel established under subsection (b).

(b)(1) There is established the National Advisory Panel on Prison Rehabilitation Programs (hereinafter referred to as the "Panel").

(2) The Panel shall consist of 5 members, of whom—

(A) 3 shall be appointed by the Director;

(B) 1 shall be appointed by the President Pro Tempore of the Senate; and

(C) 1 shall be appointed by the Speaker of the House of Representatives.

(3) The panel shall advise the Director regarding the establishment and daily operations of the national training center established under subsection (a).

(c)(1) There are authorized to be appropriated to the Bureau of Justice Assistance—

(A) $4,000,000 for establishment and operation of the national training center established under subsection (a), salaries and expenses of personnel at such training center, and salaries of the 3 members of the Panel appointed under subsection (b)(2)(A) for fiscal year 1989;

(B) $2,000,000 for the development of a community-based residential drug treatment program at the El Reno Federal Correctional Institute to be associated with the national training center established under subsection (a) for fiscal year 1989; and

(C) $2,000,000 for the development of the curriculum for the national training center established under subsection (a) for fiscal year 1989.

(2) Amounts appropriated under this subsection shall be in addition to other appropriations made available the Bureau of Justice Assistance for fiscal year 1989 for programs other than programs authorized by this section.

TITLE VIII—DRUG TESTING IN THE PRIVATE SECTOR

SEC. 801. DRUG TESTING PROGRAM REQUIREMENTS.

(a) No employer engaged in commerce or in an enterprise engaged in commerce or in the production of goods for commerce may—

(1) refuse to hire an applicant for employment,

(2) take any adverse action against an employee, or

(3) discharge an employee, on the basis of the results of a drug test administered to the applicant or employee unless the drug test was conducted by a laboratory which meets the requirements of subsection (b).

(b) Under the requirements referred to in subsection (a), a laboratory which conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines established by the Secretary of Health and Human Services under section 503(a)(1)(A)(ii)(I) and section 503(a)(1)(A)(ii)(III) of the supplemental Appropriations Act, 1987,

(2) require a confirmatory test when an initial screening test is positive and shall not report a test as positive unless it has been confirmed, and

(3) provide guidance to the employers on procedures for the collection of specimens to be tested and on procedures for the chain of custody of such specimens.

(c) An employer who takes an action described in subsection (a) on the basis of the results of a drug test conducted by a laboratory which does not meet the requirements of subsection (b) shall be subject to a civil penalty of $10,000.

SEC. 802. EFFECTIVE DATE.

Section 801 shall take effect—

(1) on the effective date of guidelines established by the Secretary of Health and Human Services under section 801(b), or

(2) 6 months after the date of the enactment of this Act,

whichever occurs first.

TITLE IX—CONGRESSIONAL POLICY REGARDING ADDITIONAL FUNDING FOR FISCAL YEAR 1989 FOR ANTIDRUG ABUSE PROGRAMS

SEC. 901. STATEMENT OF POLICY.

(a) The Congress finds that—

(1) the programs, projects, activities, and initiatives contained in this Act are of critical importance in developing a comprehensive approach to addressing the multiple facets of the drug abuse problem that faces the United States of America;

(2) the President's budget for fiscal year 1989 as presented to the Congress on February 18, 1988, contains funding for some but not all of the programs,

projects, activities, and initiatives contained in this Act, and does not provide sufficient funding to launch a full scale assault on the drug abuse problem that plagues the United States;

(3) there is an urgent and critical need for appropriations, in addition to those requested in the President's budget for fiscal year 1989 as presented to Congress on February 18, 1988, to carry out the programs, projects, activities, and initiatives contained and authorized in this Act, and to ensure continuation of the momentum generated by the bipartisan Antidrug Abuse Act of 1986 (Public Law 99-570);

(4) the additional appropriations required in fiscal year 1989 to accommodate the programs, projects, activities, and initiatives contained in this Act should be included in the Concurrent Resolution on the Budget for fiscal years 1989, 1990, and 1991 with sufficient levels of appropriations allocated to the Committees on Appropriations of the House and Senate through the section 302(a) allocation process under the Budget Act of 1974, as amended to accommodate the programs, activities, and initiatives contained in this Act; and

(5) the terms and conditions of the Bipartisan Congressional Leadership Budget summit should, if necessary, be amended to accommodate the level of

new budget authority and outlays to fully fund the programs, activities, and initiatives contained in this Act.

(b) Therefore, it is the intent of Congress that—

(1) new budget authority and outlays required to carry out the programs, activities, and initiatives contained in this Act shall be accommodated in the concurrent resolution on the budget for fiscal year 1989 and crosswalked to the Committees on Appropriations of the House and Senate and other appropriate committees of the Congress through the section 302(a) allocation process under the Budget Act of 1974, as amended;

(2) to the maximum extent possible, amounts authorized to be appropriated to carry out the programs, activities, and initiatives contained in this Act, shall be provided in regular appropriations bills or continuing appropriations bills for the fiscal year ending September 30, 1989;

(3) any new budget authority and outlays required to carry out the programs, projects, activities, and initiatives contained in this Act, which are not provided for in regular appropriations Acts for fiscal year 1989 or any continuing resolution for fiscal year 1989, shall be provided in the first available supplemental appropriation Act or resolution for fiscal year 1989 within

90 days of the submission of the President's fiscal year 1990 budget of the United States in January or February of 1989;

(4) any such amounts appropriated for fiscal year 1989, either in regular appropriations Acts, continuing resolutions, or supplemental appropriations Acts, shall not be provided through transfers from, or reductions in, any amount appropriated for other purposes in regular appropriations Acts, continuing resolutions, or supplemental appropriations Acts for any other program, project, activity or initiative for such fiscal year, unless and only unless such amounts can be identified as nonessential administrative, nonprogrammatic funds that are determined by the Congress to no longer be required to carry out ongoing programs; or only if such amounts are identified to come from unobligated, uncommitted balances of appropriated funds that Congress has determined are no longer required to carry out ongoing, approved programs, projects, activities, or initiatives;

(5) any amounts authorized to be appropriated for fiscal years 1990 and 1991 shall be provided in regular appropriations Acts, continuing resolutions, or supplemental appropriations Acts for those fiscal years and

under the same terms and conditions as contained in this subsection; and

(6) the President of the United States shall direct the Office of Management and Budget to include sufficient levels of appropriations in the fiscal years 1990 and 1991 budget of the United States to fully annualize the entire cost of the programs, projects, activities, initiatives, and personnel levels authorized in this Act and provided for in regular, continuing, and supplemental appropriations Acts for fiscal year 1989.

I

100th CONGRESS
2d Session

H. R. 4446

To provide for a drug-free America.

IN THE HOUSE OF REPRESENTATIVES

April 21, 1988

Mr. Shaw (for himself, Mr. Badham, Mr. Ballenger, Mr. Bartlett, Mr. Barton of Texas, Mr. Bennett, Mrs. Bentley, Mr. Bilirakis, Mr. Bliley, Mr. Cheney, Mr. Coble, Mr. Combest, Mr. Craig, Mr. Davis of Illinois, Mr. DeLay, Mr. DioGuardi, Mr. Dornan of California, Mr. Edwards of Oklahoma, Mr. Erdreich, Mr. Fawell, Mr. Gekas, Mr. Gilman, Mr. Gingrich, Mr. Grant, Mr. Gregg, Mr. Hammerschmidt, Mr. Herger, Mr. Hunter, Mr. Ireland, Mr. Konnyu, Mr. Kyl, Mr. Leath of Texas, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Livingston, Mr. Lott, Mr. Donald E. Lukens, Mr. McCollum, Mr. Mack, Mr. MacKay, Mr. Martin of New York, Mrs. Martin of Illinois, Mr. Miller of Ohio, Mr. Montgomery, Mr. Nielson of Utah, Mr. Ritter, Mr. Rogers, Mr. Roth, Mr. Schuette, Mr. Skeen, Mr. Solomon, Mr. Smith of Texas, Mr. Smith of New Hampshire, Mr. Denny Smith, Mr. Swindall, Mr. Thomas of California, Mr. Vander Jagt, Mr. Walker, Mr. Whittaker, Mr. Wortley, Mr. Young of Florida, Mr. Lagomarsino, Mr. Gallegly, Mr. Harris, Ms. Kaptur, Mr. Bereuter, and Mr. McEwen) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce, the Judiciary, Interior and Insular Affairs, Armed Services, Foreign Affairs, Merchant Marine and Fisheries, Banking, Finance and Urban Affairs, Education and Labor, and Post Office and Civil Service

A BILL

To provide for a drug-free America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Free America Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) to date, a blueprint has not been drawn for a drug free America through a total elimination of importation, distribution, and manufacture of illegal drugs;

(2) illegal drug use undermines the cohesiveness of the family unit, which is the foundation of our society;

(3) our Nation's youth, minorities, and disadvantaged are disproportionately affected by the destructiveness of illegal drugs;

(4) the use of illegal drugs is one of the Nation's most serious problems threatening both the economy and national security;

(5) the control and elimination of drugs is an international problem requiring the commitment and cooperation of all nations;

(6) drug use is not a victimless crime;

(7) the present policy of containment must be replaced with a plan to ensure victory in the war on drugs;

(8) illegal drugs affect the quality of life of all Americans; and

(9) National Forest System lands continue to be a haven for the unlawful production of controlled substances.

(b) PURPOSE.—It is the purpose of this legislation to provide for a drug free America—

(1) by stiffening civil and criminal sanctions for the possession and use of illegal drugs to stem demand;

(2) by assuring that drug rehabilitation is provided for those abusing illegal drugs, particularly the unborn who are innocently exposed to such drugs;

(3) by improving the coordination of United States national drug policy and international drug policy;

(4) by eliminating the supply of illegal drugs entering the United States;

(5) by enhancing and expanding the use of the United States military in controlling the cultivation and trafficking of illegal drugs in areas outside the continental United States;

(6) by providing assistance to foreign nations in eradicating the cultivation of illegal drug crops and their distribution through the sharing of intelligence information and joint civilian and military law enforcement operations with host nations;

(7) by stimulating international cooperation for effective narcotic control;

(8) by enhancing the control and eradication of illegal drugs on National Forest Service lands;

(9) by eliminating the potential for profit through the seizure and forfeiture of assets;

(10) by restricting Federal education and other assistance to young adults convicted of illegal drug use or possession to send a signal to America's youth that those among them who use illegal drugs are accountable for their behavior;

(11) by providing for the construction and operation of additional Federal and State detention facilities; and

(12) by continuing the Federal role as a catalyst for encouraging further development of comprehensive State and local responses to illegal drug use.

SEC. 3. DEATH PENALTY FOR CERTAIN CONTINUING CRIMINAL ENTERPRISE DRUG OFFENSES.

(a) ELEMENTS OF OFFENSE.—Section 408(a) of the Controlled Substances Act (21 U.S.C. 848(a)) is amended—

(1) by striking out "(a) Any" and inserting "(a)(1) Except as otherwise provided in this section, any" in lieu thereof;

(2) by striking out "; except that if" and inserting ". If" in lieu thereof; and

(3) by adding at the end the following:

"(2) If an individual intentionally engages in conduct during the course of a continuing criminal enterprise and thereby knowingly causes the death of any other individual, the individual so engaging shall be subject to the death penalty in accordance with this section.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act is amended by adding at the end the following:

"Hearing Required With Respect to the Death Penalty

"(f) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice by the Government in Death Penalty Cases

"(g)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(h)(1) When the attorney for the Government has filed a notice as required under subsection (g) and the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(i) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (l) and (m), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (m), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors, and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the information.

"Return of Findings

"(j) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any mitigating factors, and any aggravating factors set forth in subsection (m), found to exist. If one of the aggravating factors set forth in subsection (m)(1) and another of the aggravating factors set forth in subsection (m) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding of any aggravating or mitigating factor by a jury shall be made by unanimous vote. If an aggravating factor set forth in subsection (m)(1) is not found to exist or an aggravating factor set forth in subsection (m)(1) is found to exist but no other aggravating factor set forth in subsection (m) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (m)(1) and one or more of the other aggravating factors set forth in subsection (m) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"Imposition of Sentence

"(k) Upon a finding that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"Mitigating Factors

"(l) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant was less than 18 years of age at the time of the crime.

"(2) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(3) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(4) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(5) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of the offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"Aggravating Factors

"(m) If the defendant is found guilty of or pleads guilty to an offense under subsection (a)(2), the following aggravating factors shall be considered but are not exclusive:

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim; or

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (a)(1), the defendant knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) The violation of this chapter in relation to which the conduct described in subsection (a)(2) occurred was a violation of section 405.

"(7) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(8) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(10) The defendant committed the offense against a judge, a law-enforcement officer, or an employee of a penal or correctional institution, while that victim was performing official duties or because of that victim's status as a public servant of the United States, or a State or political subdivision of the United States. For purposes of this paragraph the term 'law-enforcement officer' means a public servant authorized by law to conduct or engage in the prevention, investigation, or prosecution of an offense.

"Instruction to Jury on Right of the Defendant to Justice Without Discrimination

"(n) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant was not involved in reaching such juror's individual decision.

"Sentencing in Capital Cases in Which Death Penalty Is Not Sought or Imposed

"(o) If a person is convicted for an offense under subsection (a)(2) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"Appeal in Capital Cases

"(p)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28 of the United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with the failure to find sufficient mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.".

SEC. 4. INCREASED PENALTIES FOR CRACK VIOLATIONS.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance described in section 401(b)(1)(A)(ii) which contains cocaine base shall, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram, be imprisoned not less than five or more than 20 years.".

SEC. 5. PRECURSOR CHEMICALS AND ESSENTIAL CHEMICALS.

(a) IN GENERAL.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"PRECURSOR CHEMICALS AND ESSENTIAL CHEMICALS

"SEC. 310. (a)(1) Except as provided under paragraph (3) of this subsection any person who manufactures, distributes, *imports* or exports a substance listed under subsection (d) shall maintain records and make reports as the Attorney General may by regulation require concerning the distribution, receipt, sale, importation or exportation of said listed substances. Such records shall be in a form such that they are readily retrievable from ordinary business records and shall be kept and made available, for at least 5 years, for inspection and copying by officers or employees of the United States authorized by the Attorney General. In establishing regulations concerning required records and reports, the Attorney General may establish a threshold quantity for recordkeeping and reporting requirements for each listed chemical. The Attorney General may include in the information required to be maintained or reported the following:

"(A) The quantity, form, and manner in which, and date on which, the substance was distributed, imported or exported.

"(B)(i) In the case of the distribution or exportation to an individual, the name, address, and age of the individual and the type of identification presented to establish the identity of the individual.

"(ii) In the case of the distribution or exportation to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the substance and the type of identification presented to establish the identity of the individual and of the entity.

"(2) Except as provided under paragraph (3) of this subsection, no person may distribute or export a substance listed under subsection (d) unless the recipient or purchaser presents to the distributor a certification of lawful use and identification, to establish the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents), of such a type as the Attorney General establishes by regulation.

"(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

"(A) the distribution of listed substances between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

"(B) the delivery of listed substances to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, importation, or exportation of substances to a third person, this subparagraph shall not relieve the distributor, importer, or exporter from compliance with paragraph (1) or (2); or

"(C) any distribution, importation, or exportation with respect to which the Attorney General determines that the reports or records required by paragraph (1) or the presentation of identification or certification required by paragraph (2) is not necessary for the enforcement of this subchapter.

"(D) any distribution, importation, or exportation of any drug product which contains a listed substance and which can be lawfully marketed in the United States under the provisions of the Federal Food, Drug, and Cosmetic Act.

"(b) It shall be unlawful:

"(1) To import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any substance listed under subsection (d) unless the substance is imported for commercial, scientific, or other legitimate uses, and—

"(A) in the case of substances listed in subsection (d)(1), pursuant to a permit issued by the Attorney General; or

"(B) in the case of substances listed in subsection (d)(2), pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

"(2) To export from the United States to any other country a substance listed under subsection (d) unless there is furnished (before export) to the Attorney General documentary proof that exportation is not contrary to the laws or regulations of the country of destination for consumption for medical, commercial, scientific, or other legitimate purposes—

"(A) in the case of substances listed in subsection (d)(1), pursuant to a permit issued by the Attorney General; or

"(B) in the case of substances listed in subsection (d)(2), pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe.

"(c) The Attorney General may by rule—

"(1) add substances to the list in subsection (d) if the Attorney General finds that—

"(A) such substance is a precursor or essential chemical which can be used to manufacture a controlled substance; and

"(B) such substance is being used in the manufacture of controlled substances in violation of this title.

"(2) delete a substance listed in subsection (d) or added to the list by rule if the Attorney General finds that its listing no longer meets the criteria set forth in paragraph (1).

"(d) The provisions of this title shall apply to the following:

"(1) Precursor chemicals:

"(A) N-Acetylanthranilic acid;

"(B) Anthranilic acid;

"(C) Ergotamine tartrate;

"(D) Ergonovine maleate;

"(E) Phenylacetic acid;

"(F) Ephedrine;

"(G) Pseudoephedrine;

"(H) Benzyl cyanide;

"(I) Benzyl chloride;

"(J) Piperidine;

"(2) Essential chemicals:

"(A) Potassium permanganate;

"(B) Acetic anhydride;

"(C) Acetone;

"(D) Ethyl ether.

"(3) Any substance that the Attorney General determines should be considered a regulated precursor under subsection (e) during the period established under such subsection.

"(e) If the Attorney General finds that the addition of a substance to the list of regulated precursors under subsection (d) on a temporary basis is necessary to avoid an imminent hazard to public safety, he may by order determine that such substance should be considered a regulated precursor for the purposes of subsection (c). The Attorney General shall make that determination in the same manner and subject to the same requirements and limitations as a decision under section 211(h) to schedule a substance temporarily in Schedule I.

"(f) Any information which is reported to or otherwise obtained by the Attorney General under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this title or title III or when relevant in any proceeding for the enforcement of this title or title III or when necessary to meet United States treaty obligations.

"(g) For the purposes of this title:

"(1) The term 'import' has the meaning given such term in section 1001 of title III (21 U.S.C. 951(a)(1)).

"(2) The term 'customs territory of the United States' has the meaning assigned to such term by section 1001 of title III (21 U.S.C. 951(a)(2)).

"(h) No person may distribute, sell, import, export, or otherwise transfer to another person any commercial tableting machine or encapsulating machine unless the purchaser, recipient, transferee, or his agent presents to the distributor or supplier a certification of lawful use and identification to establish the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents) of such a type as the Attorney General by regulation may establish.

"(i) Any person who distributes, sells, imports, exports, or otherwise transfers to another person any commercial tableting machine or encapsulating machine shall report the transfer to the Attorney General in such a form as the Attorney General may by regulation require. The Attorney General may require such information as the date of sale or transfer, name and address of transferee, purpose for which equipment is intended, serial numbers, and make/model of equipment.".

(b) PROHIBITED ACTS A: INTENT TO MANUFACTURE.—Section 401(d)(1) of the Controlled Substances Act (21 U.S.C. 841(d)(1)) is amended by—

(1) striking "piperidine" and inserting "precursor chemical or essential chemical listed under section 310(d)"; and

(2) striking "phencyclidine" and inserting "any controlled substance".

(c) PROHIBITED ACTS A: KNOWLEDGE OR BELIEF OF MANUFACTURE.—Section 401(d)(2) of the Controlled Substances Act (21 U.S.C. 841(d)(2)) is amended by—

(1) inserting "or distributes" after "possesses";

(2) striking "piperidine" the first place it appears and inserting "precursor chemical or essential chemical listed under section 310(d)";

(3) striking "piperidine" the second place it appears and inserting "precursor chemical or essential chemical"; and

(4) striking "phencyclidine" and inserting "any controlled substance".

(d) PROHIBITED ACTS A: ADDITIONAL OFFENSES.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by—

(1) striking "or" in paragraph (1); and

(2) adding new paragraphs (3), (4), and (5) as follows:

"(3) manufactures, distributes, imports, or exports a precursor chemical or essential chemical listed under section 310(d) except as provided for by this title,

"(4) possesses any precursor chemical or essential chemical listed under section 310(d), with knowledge that the recordkeeping or reporting requirements of section 310(a) or regulations issued thereunder have not been adhered to, or

"(5) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310(a) or the regulations issued thereunder, receives or distributes a reportable amount of any chemical listed under section 310(d) in units small enough so that the making of records or filing of reports under section 310(a) is not required,".

(e) PROHIBITED ACTS B: DISTRIBUTION AND SALES.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended by—

(1) striking "or sell piperidine" and inserting "a precursor chemical or essential chemical listed under section 310(d)"; and

(2) inserting "or certification" after "identification".

(f) PROHIBITED ACTS B: TECHNICAL CORRECTIONS.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking subparagraph (C).

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended by—

(1) in paragraph (4)(B) striking "piperidine" and inserting "a precursor chemical or essential chemical listed under section 310(d)";

(2) in paragraph (4)(B) inserting "or certificate" after "identification" where it appears;

(3) in paragraph (4)(B) striking "or" after the semicolon; and

(4) adding the following paragraphs after paragraph (5) as follows:

"(6) to possess any drug manufacturing equipment, tableting, or encapsulating machines, or gelatin capsules with intent to manufacture a controlled substance except as authorized by this title; or

"(7) to manufacture, distribute, or import any drug manufacturing equipment, tableting, or encapsulating machines, or gelatin capsules knowing, or having reasonable cause to believe, that they will be used to manufacture a controlled substance except as authorized by this title.".

(h) Additional Penalty.—Section 403(c) of the Controlled Substances Act (21 U.S.C. 843(c)) is amended by adding at the end of the paragraph: "In addition, any person convicted of a violation of this section or section 401 relating to the receipt, distribution, importation, or exportation of substances listed in section 310(d) shall be enjoined from conducting business activities with such substances for a minimum of ten years.".

(i) Forfeiture.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding a new paragraph (9) as follows:

"(9) all chemicals listed under section 310(d), all drug manufacturing equipment, all tableting, or encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, in violation of this title, as well as all conveyances and equipment, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any way facilitate the transportation, distribution, receipt, possession, or concealment of precursor chemicals and essential chemicals, drug manufacturing equipment, tableting, or encapsulating machines, or gelatin capsules, in violation of this title, except as provided for under paragraph (4) (A) and (B) above.".

(j) DUTY OF ATTORNEY GENERAL.—The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances. This program shall include appropriate controls on the purchase, sale, import, and export of these chemicals and development of cooperative efforts with foreign drug control authorities.

(k) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by—

(1) in paragraph (11), inserting after "a controlled substance" both places it appears "or a precursor chemical or essential chemical listed under section 310(d)";

(2) in paragraph (8), inserting "or a precursor chemical or essential chemical" after "a controlled substance"; and

(3) adding new paragraphs (33) and (34) as follows:

"(33) The term 'precursor chemical' means a substance that may be used in the chemical process of manufacturing controlled substances and which is incorporated into the final product and is therefore critical to its manufacture.

"(34) The term 'essential chemical' means a substance that may be used in the chemical process of manufacturing controlled substances as a solvent, reagent, or catalyst.".

(l) SUBPOENA POWER.—Section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by adding "or precursor chemicals or essential chemicals" after "with respect to controlled substances".

(m) CLERICAL AMENDMENT.—The table of sections for part C of the Controlled Substances Act is amended by striking the item relating to section 310 and inserting the following in lieu thereof:

"310. Precursor chemicals and essential chemicals.".

(n) EFFECTIVE DATE.—This section shall take effect 120 days after enactment.

SEC. 6. CIVIL PENALTIES.

(a) CONTROLLED SUBSTANCES ACT AMENDMENT.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by adding at the end the following:

"(d)(1) In addition to any criminal or civil sanction incurred under this title or any other applicable law, any person who commits a violation of this section involving heroin or cocaine shall be liable for a civil penalty of not more than $100,000 for a first violation, and not more than $500,000 for any subsequent violation.

"(2) A civil penalty under this section shall be assessed and enforced in the manner generally applicable to civil penalties under this title and shall be deposited in the Department of Justice Assets Forfeiture Fund.".

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENT.—Section 1014 of the Controlled Substances Act (21 U.S.C. 964) is amended—

(1) by inserting before the existing paragraph the following:

"(a) In addition to any criminal or civil sanction incurred under this subchapter or any other applicable law, any person who commits a violation of this subchapter involving heroin or cocaine shall be liable for a civil penalty of not more than $100,000 for a first violation, and not more than $500,000 for any subsequent violation.

"(b) A civil penalty under this section shall be assessed and enforced in the manner generally applicable to civil penalties under this title and shall be deposited in the Department of Justice Assets Forfeiture Fund."; and

(2) by inserting "(c)" before "Any penalty".

SEC. 7. INELIGIBILITY FOR AND REVOCATION OF LICENSES.

(a) IN GENERAL.—No person who is convicted of—

(1) any violation of a Federal or State law involving controlled substances as defined by the Controlled Substances Act; or

(2) any criminal violation of any of sections 5311 through 5322 of title 31, United States Code, or section 1956 or 1957 of title 18, United States Code;

shall be eligible for any license or permit issued under the authority of the United States or any agency thereof during the period determined under subsection (b). Any permit or license held by the violator at the time of such conviction shall be revoked.

(b) PERIOD OF CONTINUING INELIGIBILITY.—The period of ineligibility for a permit or license begins on the date of conviction of the crime resulting in ineligibility and ends—

(1) 10 years after that date, if the crime is punishable by imprisonment for more than one year; and

(2) 5 years after that date in any other case.

SEC. 8. INCREASED DRUG ABUSE TREATMENT SERVICES FOR EXPECTANT MOTHERS UNDER ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT.

(a) IN GENERAL.—Section 1916(c) of the Public Health Service Act (42 U.S.C. 300x-4(c)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) The State agrees, with respect to the treatment of drug abuse, to make grants for demonstration projects for the provision to expectant mothers of residential treatment services provided in settings other than hospitals.".

(b) Conforming Amendment.—Section 1915(b)(1) of the Public Health Service Act (42 U.S.C. 300x-3(b)(1)) is amended by striking "drug abuse programs," and inserting "drug abuse programs (except as provided in section 1916(c)(16),".

SEC. 9. OFFICE OF DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

(a) Establishment of Office.—

(1) In general.—There is established in the Executive Office of the President an office to be known as the "Office of the Director of National Drug Control Policy" (hereafter in this Act referred to as the "Office of the Director").

(2) Director and deputy directors.—

(A) There shall be at the head of the Office of the Director, a Director of National Drug Control Policy (hereafter in this Act referred to as the "Director").

(B) There shall be two deputy directors of the Office of Director (hereafter in this Act referred to as the "Deputy Directors") as follows:

(i) A Deputy Director for Demand Reduction to be responsible for prevention, treatment, research, and private sector initiatives; and

(ii) A Deputy Director for Drug Law Enforcement to be responsible for domestic drug law enforcement, border interdiction, and international narcotics control programs.

The Deputy Directors shall assist the Director in carrying out the Director's functions under this Act.

(3) SUNSET PROVISION.—The Office of the Director shall cease to exist 8 years after the date of the enactment of this Act.

(b) APPOINTMENT.—(1) The Director and the Deputy Directors shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director and the Deputy Directors shall each serve at the pleasure of the President. No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(3) The Director shall be entitled to the compensation provided for in section 5312 of title 5, United States Code.

The Deputy Directors shall be entitled to the compensation provided for in section 5314 of title 5, United States Code.

(c) FUNCTION OF DIRECTOR.—The Director shall serve as the principal director and coordinator of United States operations and policy on drug control and abuse.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall have the responsibility, and is authorized to—

(1) develop, review, implement, and enforce United States Government policy with respect to drug control and abuse;

(2) direct and coordinate all United States Government efforts to halt the importation, manufacture, distribution, and use of illicit drugs within the United States;

(3) direct and coordinate all United States Government efforts and programs to reduce the demand for illicit drugs through education, prevention, research and treatment;

(4) develop in concert with other governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to drug control and abuse;

(5) prepare a National and International Drug Control Strategy as provided in section 5; and

(6) coordinate the collection and dissemination of information necessary to implement United States policy with respect to drug control and abuse.

(e) POWERS OF DIRECTOR.—In carrying out his responsibilities under subsection (c) the Director is authorized to—

(1) direct, with the concurrence of the Secretary or Director of the Cabinet level agency employing such personnel, the temporary reassignment of Government personnel within the United States Government in order to implement United States policy with respect to drug control and abuse;

(2) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(3) accept and use donations of property from all Government agencies; and

(4) use the mails in the same manner as any other department or agency of the Executive Branch.

(f) AUTHORITY OF DIRECTOR.—Notwithstanding any other provision of law, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(g) INTELLIGENCE AUTHORITY.—Notwithstanding any other provision of law, the Director shall undertake no activities inconsistent with the authorities and responsibilities of the Director of Central Intelligence under the National Security Act of 1947 or Executive Order 12333.

(h) GENERAL SERVICES ADMINISTRATION SUPPORT.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(i) DEVELOPMENT AND SUBMISSION OF THE DRUG STRATEGY.—(1) The Director shall submit to the Congress, on February 1st of each year, a full and complete National and International Drug Control Strategy (hereafter in this section referred to as the "Drug Control Strategy"). If necessary, sections of the Drug Control Strategy that involve classified information may be presented to Congress in closed proceedings.

(2) The Drug Control Strategy shall be a forward looking blueprint for the Federal Government and the Nation to follow in reducing drug abuse, and shall contain projections for program and budget priorities and realistic and achievable

projections for drug seizures, availability, purity, and drug usage for the next five years.

(3) Commencing with the second report, the Drug Control Strategy shall include a full and complete report reflecting accomplishments with respect to the United States policy and priorities in the previous year.

(j) GOALS AND PRIORITIES.—The Drug Control Strategy developed pursuant to subsection (i) shall include a full and complete list of goals and priorities in the areas of—

(1) international narcotics control;

(2) domestic and border drug law enforcement;

(3) reducing and demand for drugs, through education, prevention, treatment, and research; and

(4) cooperative efforts between the Federal and State and local governments in the area of drug control.

In addition, the Drug Control Strategy shall contain a full and complete assessment of how the budget priorities developed pursuant to subsection (i) reflect and implement the Federal drug control strategy.

(k) OFFICERS AND EMPLOYEES.—The Director may select, appoint, employ, and fix the compensation of such officers and employees as shall be necessary to carry out the duties of the Office of the Director.

(l) TERMINATION.—The National Drug Enforcement Policy Board is terminated 90 days after the appointment of the Director. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Office of the Director. The Director of the Office of Management and Budget shall take such actions as are necessary to facilitate such transfer.

(m) REPEAL.—(1) Chapter XIII of title II of the Comprehensive Crime Control Act of 1984 (Public Law 98–473) is repealed.

(2) Sections 103, 201, 202, 203, 204, and 206 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1103, 1111, 1112, 1113, 1114, and 1116) are repealed. Section 205 of such Act is redesignated as section 201.

(n) AUTHORIZATION.— For the purpose of carrying out this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 8 succeeding fiscal years, to be available until expended.

(o) TITLE 31 AMENDMENT.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(26) a detailed request, in consultation with the Director for National Drug Control Policy, for Federal agencies responsible for drug abuse prevention and treatment and drug law enforcement.".

(p) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

SEC. 10. SUPPLEMENTAL APPROPRIATION FOR COAST GUARD DRUG ENFORCEMENT ACTIVITIES.

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations for the fiscal year ending September 30, 1988, namely:

For necessary expenses of the operation and maintenance of the Coast Guard in carrying out drug enforcement activities, not otherwise provided for; and necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft used in carrying out drug enforcement activities, including equipment related thereto, $45,000,000.

SEC. 11. AUTHORITY AND PROTECTION OF COMMANDING OFFICERS ON NAVAL VESSELS TO WHICH COAST GUARD PERSONNEL ARE ASSIGNED.

(a) IN GENERAL.—Section 637 of title 14, United States Code, is amended to read as follows:

"§ 637. Stopping vessels; immunity of commanding officer

"(a) Whenever any vessel liable to seizure or examination does not bring-to, on being ordered to do so or on being chased by any authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for such authorized vessel or authorized aircraft, the person in command or in charge of such authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not bring-to.

"(b) The person in command of an authorized vessel or authorized aircraft and all persons acting by or under such person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by such firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

"(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

"(1) it is a Coast Guard vessel or aircraft; or

"(2) it is a surface naval vessel on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10, United States Code.".

(b) CONFORMING AMENDMENT.—The item relating to section 637 in the table of sections at the beginning of chapter 17 of title 14, United States Code, is amended to read as follows:

"637. Stopping vessels; immunity of commanding officer.".

SEC. 12. INDEMNIFICATION OF COAST GUARD MEMBERS AND EMPLOYEES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 644 the following:

"§ 645. Indemnification of Coast Guard members and employees.

"The Commandant may indemnify any member or employee of the Coast Guard against any claim or judgment against such member or employee if the claim or judgment arises out of an act committed, as determined by the Commandant, within the scope of the official duties of the member or employee in carrying out drug enforcement activities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"645. Indemnification of Coast Guard members and employees.".

SEC. 13. EXTENDING JURISDICTION OVER POSSESSION OFFENSES.

The first sentence of section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting "anywhere within the United States, aboard vessels or aircraft of the United States, or aboard vessels or aircraft subject to the operation of the law of the United States," after "intentionally to possess a controlled substance".

SEC. 14. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) SECTION 3(a) AMENDMENT.—Section 3(a) of the Act entitled " An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (46 U.S.C. App. 1903(a)), is amended by inserting after "jurisdiction of the United States," the following: "or who is a citizen of the United States or a resident alien of the United States on board any vessel,".

(b) SECTION 3(b) AMENDMENT.—Section 3(b)(2) of such Act (46 U.S.C. App. 1903(b)(2)) is amended by inserting after "High Seas" the following: "and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law".

SEC. 15. SENSE OF CONGRESS ON SUPPRESSION OF INTERNATIONAL NARCOTICS TRAFFICKING.

It is the sense of Congress that the suppression of international narcotics trafficking is a major national security objective of the United States and the most important national security objective within the Western Hemisphere.

SEC. 16. ASSISTANCE TO FOREIGN COUNTRIES FOR ENFORCEMENT OF DRUG LAWS.

Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Defense, upon request by the head of a foreign government and upon recommendation by the Drug Enforcement Agency, shall provide equipment to, or assign members of the armed forces to assist, the foreign government in the enforcement of laws similar to those listed in subsection (a).

"(2) Any such equipment or assistance shall be provided in accordance with a plan prepared jointly by the foreign government, the Drug Enforcement Agency, and the Department of Defense, and approved by both the President and the head of the foreign government. The plan shall require that the foreign government pay for costs of the equipment and assistance provided under this subsection to the extent possible and that the United States pay for such costs only if the President determines that the foreign government cannot afford such costs or that the payment of such costs is in the interest of carrying out the purposes of the Drug-Free America Act of 1988.".

SEC. 17. ENHANCED AUTHORITY OF MEMBERS OF THE ARMED FORCES IN DRUG INTERDICTION ACTIVITIES.

(a) IN GENERAL.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (2), the Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), shall assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of that agency in searches, seizures, and arrests outside the land area of the United States (or of any territory or possession of the United States) in connection with the enforcement of those Acts. Such assistance may continue into the land area of the United States (or any such territory or possession) in cases involving the hot pursuit of vessels or aircraft where such pursuit began outside such land area.

"(2) Members may be assigned to provide assistance under paragraph (1) only if—

"(A) the Attorney General certifies that there are insufficient law enforcement resources available to ensure the success of the operation; and

"(B) Federal drug enforcement officials maintain control over the activities and direction of any drug enforcement operation.

"(3) Members assigned to provide assistance under paragraph (1) may use deadly force in the enforcement of the Acts referred to in paragraph (1) only outside the land area of the United States (and any territory or possession of the United States) and if the force is needed to apprehend or prevent the escape of any person in connection with assistance under this section.

"(4) Nothing in this subsection shall be construed to transfer the responsibility for the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) to the Department of Defense.".

(b) CONFORMING AMENDMENT.—Section 375 of such title is amended by inserting "(other than under section 374(e))" after "under this chapter".

(c) PLAN AND REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall prepare a plan to implement section 374(e) of title 10, United States Code (as added by subsection (a)) and shall submit to Congress a report on such plan. In preparing the plan, the Secretary shall assume that the full range of conventional resources of the Department of Defense will be available for drug interdiction activities.

SEC. 18. SUBMISSION TO CONGRESS OF PROPOSED LEGISLATION RELATING TO DRUG SMUGGLING AIRCRAFT.

The Secretary of the Treasury shall evaluate alternatives to the use of deadly force as a means of forcing suspected drug-smuggling aircraft entering the United States to land. Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a draft of legislation (including technical and conforming provisions) recommended by the Secretary to implement the most appropriate alternative.

SEC. 19. SUBMISSION TO CONGRESS OF PROPOSED LEGISLATION RELATING TO SPECIAL RESTRICTIONS AND INSPECTIONS FOR VESSELS ARRIVING FROM DRUG-PRODUCING COUNTRIES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a draft of legislation (including technical and conforming provisions) recommended by the Secretary (1) to restrict vessels and aircraft with cargoes from, or shipped through, countries certified by the Secretary of State to be drug-producing countries to specific ports of entry, and (2) to subject such vessels and aircraft to quarantine and inspection by customs officers. The draft should include provisions for assessment of special fees to cover the cost to the United States of the quarantine and inspections.

SEC. 20. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

Subsection 481(h)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) In making the certification required by paragraph (2) of this subsection, the President shall consider whether such government—

"(A) has taken actions that have resulted in maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4);

"(B) has taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances significantly affecting the United States;

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement of laws prohibiting such conduct,

"(ii) the willingness of such government to enter into mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which such government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

"(D) as a matter of government policy, encourages or facilitates the production of distribution of illegal drugs;

"(E) consists of any senior official who engages in, encourages, or facilitates the production or distribution of illegal drugs;

"(F) has investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has suffered or been threatened with violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice; and

"(G) having been requested to do so by the United States Government, fails to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country.

The International Narcotics Control Strategy Report shall describe for each country listed under subparagraphs (D) through (G) the activities and identities of officials whose activities caused such country to be so listed.".

SEC. 21. RECORDS AND REPORTS REQUIRED FOR ELECTRONIC FUND TRANSFERS.

Section 5312(a)(3) of title 31, United States Code (defining monetary instruments) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(C) electronic fund transfers.";

(2) by striking out "and" at the end of subparagraph (A); and

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and".

SEC. 22. NATIONAL FOREST SYSTEM DRUG CONTROL.

(a) POWERS.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended—

(1) by striking out ", not to exceed 500 officers and employees" and inserting in lieu thereof "special agents and law enforcement officers"; and

(2) by striking out "within the boundaries of the National Forest System".

(b) COOPERATION.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "any other Federal law enforcement agency having primary investigative jurisdiction over the offense committed; and" and inserting in lieu thereof "and coordinate investigations and enforcement activities, and prepare national and regional strategy plans in coordination, with the Drug Enforcement Administration and the Federal Bureau of Investigation;";

(2) in paragraph (2), by striking out ", within the boundaries of the National Forest System." and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(3) the Forest Service shall cooperate with the Attorney General of the United States in carrying out the seizure and forfeiture provisions of section 881 of the Controlled Substances Act (21 U.S.C. 841) as such activity relates to the manufacture, distribution, or dispensing of marijuana or other controlled substances within the National Forest System.".

SEC. 23. CRIMINAL PENALTY FOR POLLUTING UNITED STATES LANDS WHILE MANUFACTURING, DISTRIBUTING, OR DISPENSING A CONTROLLED SUBSTANCE.

(a) CRIMINAL PENALTY.—Chapter 91 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1864. Polluting United States lands while manufacturing, distributing, or dispensing a controlled substance

"(a) Whoever, in violating section 401(a)(1) of the Controlled Substances Act (21 U.S.C. 841(a)(1)), or in attempting to violate such section, places a pollutant on United States lands shall be fined in accordance with this title, or imprisoned not more than 5 years, or both.

"(b) For the purposes of this section, the term "pollutant" means any substance which—

"(1) pollutes, or could pollute, a stream, river, pond, lake, or other body of water; or

"(2) is harmful to humans, wildlife, domestic animals, or the environment.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 91 of title 18, United States Code, is amended by adding at the end the following new item:

"1864. Polluting United States lands while manufacturing, distributing, or dispensing a controlled substance.".

SEC. 24. POSTAL SERVICE FORFEITURE AUTHORITY.

Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(1) by inserting "or the Postal Service" after "Attorney General" each place it appears in subsections (b), (c), and (d);

(2) by inserting "or the Postal Service" after "Attorney General" the first and third places it appears in subsection (e)(1);

(3) by striking out "The" in subsection (e)(2)(B) and inserting "With respect to forfeitures conducted by the Attorney General, the" in lieu thereof;

(4) by adding at the end of subsection (e)(2)(B) the following: "With respect to seizures conducted by the Postal Service, all moneys and proceeds shall be deposited in the Postal Service Fund established by section 2003(b)(7) of title 39, United States Code, after

payment of the expenses provided in subparagraph (A)."; and

(5) by adding at the end of such section the following:

"Postal Service Authority

"(k) The Postal Service may exercise the authority of the Attorney General with respect to such forfeitures. Such authority of the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Attorney General and the Postal Service.".

SEC. 25. POSTAL SERVICE CONTROLLED SUBSTANCES ACT ENFORCEMENT AUTHORITY.

Section 508 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 878) is amended by adding at the end the following:

"Postal Service Employees

"(c) To the extent provided in an agreement between the Attorney General and the Postal Service, officers and employees of the Postal Service who have authority to make arrests under section 3061 of title 18, United States Code, may also perform any of the enforcement functions relating to this Act as an officer or employee of the Drug Enforcement Agency may perform under subsection (a).".

SEC. 26. POSTAL SERVICE FUND AMENDMENTS.

Section 2003(b)(7) of title 39, United States Code, is amended—

(1) by striking out "under title 18"; and

(2) by adding at the end the following: "Amounts so deposited may be withdrawn and paid into the Department of Justice Assets Forfeiture Fund established by section 524 of title 28 according to guidelines established by the Postal Service.".

SEC. 27. INELIGIBILITY OF PERSONS CONVICTED OF DRUG-RELATED OFFENSES FOR FEDERAL STUDENT AID.

(a) In General.—Any person who is convicted of a drug-related offense shall be ineligible for any form of student assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.). The Secretary of Education shall provide for the termination, upon the conviction of a drug-related offense, of the provision to the person of any form of student assistance provided under title IV of the Higher Education Act of 1965.

(b) Certification of Eligibility by Applicant.—In order to receive any form of student assistance under title IV of the Higher Education Act of 1965, a person shall file with the institution of higher education that the person intends to attend, or is attending, a statement that the person has not been convicted of a drug-related offense.

(c) VERIFICATION OF ELIGIBILITY BY SECRETARY.—The Secretary of Education shall prescribe methods for verifying the statements of eligibility filed pursuant to subsection (b). The methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Attorney General of persons who have submitted the statements filed pursuant to subsection (b).

(d) DEFINITION.—For purposes of this section the term "drug-related offense" means a criminal conviction for a violation of section 401, 404, 405, 405A, 405B, or 406 of the Controlled Substances Act (21 U.S.C. 801 et seq.).

SEC. 28. AMENDMENTS TO THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT.

(a) DRUG-FREE SCHOOLS REAUTHORIZATION.— Section 4111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this title referred to as the "Act") is amended to read as follows:

"(a) There are authorized to be appropriated $250,000,000 for fiscal year 1988 and such sums as may be necessary for fiscal years 1989, 1990, and 1991 to carry out the provisions of this Act.".

(b) STATE PROGRAM—LOCAL ALLOTMENTS.—The second sentence of section 4124(a) of such Act is amended by striking out "the relative numbers of children in the school-age population within such areas" and inserting in lieu thereof "the relative enrollments in public and private, nonprofit schools within the areas served by such agencies".

(c) STATE PROGRAM—PARTICIPATION OF TEACHERS IN PRIVATE NONPROFIT SCHOOLS.—Section 4143(b) of such Act is amended by striking out "State, State educational agency, or State agency for higher education" and inserting in lieu thereof "State, agency, or consortium".

(d) STATE PROGRAM—LOCAL APPLICATIONS.—

(1) Section 4126(a)(2) of such Act is amended—

(A) by redesignating subparagraphs (D) through (J) as subparagraphs (G) through (M), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(2) Section 4126 of such Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

(e) STATE PROGRAM—REPORTS.—Part 2 of such Act is amended by adding at the end thereof the following new section:

"SEC. 4127. STATE REPORTS.

"Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

(f) NATIONAL PROGRAMS—GRANTS AND CONTRACTS.—

(1) The third sentence of section 4132(b) of such Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(2) Section 4134(a) of such Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(3) Section 4135 of such Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

(g) EVALUATION.—Section 4132(d) of such Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

(h) GOVERNOR'S PROGRAM—ADMINISTRATIVE COSTS.—Section 4122 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Not more than 2.5 percent of the amount reserved under section 4121(a) shall be available to pay for the administrative costs of the chief executive officer in meeting his or her responsibilities under this part.".

(i) GOVERNOR'S PROGRAM—HIGH RISK YOUTH.—Section 4122(b)(1) of such Act is amended—

(1) in the first sentence therein by inserting "that are designed" immediately before "for high risk youth."; and

(2) by adding immediately after the first sentence therein the following new sentence: "A small number of individuals who are not high risk youth may participate in such programs if their participation does not significantly diminish the amount or quality of services provided to high risk youth.".

(j) LOCAL PROGRAMS—DRUG TREATMENT.—Section 4125(a)(5) of such Act is amended to read as follows:

"(5) referral programs for drug abuse treatment and rehabilitation;".

(k) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), this section shall take effect 30 days after the date of the enactment of this Act.

(2) A State educational agency may allot fiscal year 1989 funds to local and intermediate educational

agencies and consortia under section 4124(a) of such Act on the basis of their relative numbers of children in the school-aged population.

SEC. 29. AUTHORIZATION FOR PRISONS.

(a) IN GENERAL.—There is authorized to be appropriated for fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $200,000,000, for planning, acquisition of sites, construction of new facilities, purchase, leasing and acquisition of facilities and remodeling and equipping such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses.

(b) RELATION TO OTHER AMOUNTS.— Such appropriation shall be in addition to any amount—

(1) requested by the President in the fiscal 1989 budget transmitted to Congress on February 18, 1988; or

(2) provided in any regular or continuing appropriation Act providing appropriations for fiscal year 1989.

SEC. 30. TESTING OF ARRESTEES.

(a) TESTING FOR DRUG USE.—It is the sense of the Congress that the National Institute of Justice should conduct or authorize a 5-year research project—

(1) to obtain, on a voluntary basis, urine samples from individuals who are arrested for offenses; and

(2) to analyze such samples for the purpose of determining whether such individuals use a controlled substance or a controlled substance analogue.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)); and

(2) the term "controlled substance analogue" has the meaning given it in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)).

SEC. 31. ELIGIBILITY FOR PAROLE.

(a) IN GENERAL.—With respect to those persons on parole under former chapter 311 of title 18, United States Code, it is a mandatory condition of parole that—

(1) the parolee submit to regular drug tests administered under the authority of the person supervising the parolee; and

(2) the parolee refrain from any use of any controlled substance (as such term is defined in section 102 of the Controlled Substances Act) without a prescription by a licensed medical practitioner.

(b) EFFECT OF NONCOMPLIANCE.—Noncompliance with a condition of parole made mandatory under subsection

(a) shall be treated in the same manner as the noncompliance with other conditions of release under former chapter 311 of title 18, United States Code.

SEC. 32. MANDATORY CONDITION OF PROBATION.

(a) IN GENERAL.—Section 3563(a)(1) of title 18, United States Code, is amended by inserting after "local crime" the following: "and refrain from any use of any controlled substance (as defined in section 102 of the Controlled Substances Act) without a prescription by a licensed medical practitioner".

(b) CONFORMING AMENDMENT.—Section 3563(b)(8) of title 18, United States Code, is amended by striking out ", or any use" and all that follows through "practitioner".

(c) DRUG TESTING OF PAROLEES.—Section 3601 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "A person who has"; and

(2) by adding at the end the following:

"(b) MANDATORY DRUG TESTS.—Each probation officer shall provide for the random testing of probationers under that probation officer's supervision for the illicit use of controlled substances (as defined in section 102 of the Controlled Substances Act).".

SEC. 33. MATCHING REQUIREMENT FOR GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS.

Section 1307(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796n(a)) is amended by striking "75 percent" and inserting "50 percent".

SEC. 34. AMENDMENTS TO THE REHABILITATION ACT OF 1973.

(a) DEFINITION OF INDIVIDUAL WITH HANDICAPS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by inserting before the period a comma and the following: "except that such term does not include any individual who uses, or is addicted to, illegal drugs unless such individual is described in clause (i), (ii), or (iii)", and

(2) in the second sentence—

(A) by striking out "or drug abuser",

(B) by striking out "or drugs", and

(C) by striking out "or drug".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of such Act is amended by adding at the end the following:

"(22) The term 'illegal drugs' means controlled substances as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(c) AMENDMENT TO TITLE 5.—Section 2302(b)(10) of title 5, United States Code, is amended by inserting before the semicolon the following: "and nothing in this paragraph shall be construed to permit or require the employment of an individual who uses a controlled substance (as defined in section 102(6) of the Controlled Substances Act)".

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100TH CONGRESS
2D SESSION

H. R. 4608

Entitled: "The Maritime Drug Law Enforcement and Enhancement Act of 1988".

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1988

Mr. DAVIS of Michigan introduced the following bill; which was referred jointly to the Committees on Government Operations, Rules, Merchant Marine and Fisheries, Ways and Means, and Foreign Affairs

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A BILL

Entitled: "The Maritime Drug Law Enforcement and Enhancement Act of 1988".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Drug Law Enforcement and Enhancement Act of 1988".

TITLE I—DRUG ENFORCEMENT BUDGET IMPROVEMENTS

SEC. 101. ANNUAL REPORT ON FEDERAL DRUG ENFORCEMENT EXPENDITURES.

The President shall include with each budget for the United States Government submitted to the Congress pursuant to section 1105(a) of title 31, United States Code, a report describing in detail—

(1) the total amount of spending by each agency of the United States for illegal drug enforcement programs during the fiscal year preceding the fiscal year for which the budget is submitted;

(2) the total amount of spending proposed by the budget for each agency of the United States for illegal drug enforcement programs for the following fiscal year.

SEC. 102. CONGRESSIONAL COMMITTEE REPORTS.

Each committee of the House of Representatives and of the Senate shall issue a report not later than March 15 of each year describing estimates of the total amount of budget authority required by each agency of the United States for the following fiscal year to enable that agency to effectively implement all illegal drug enforcement programs which are within that committee's jurisdiction.

TITLE II—COAST GUARD DRUG INTERDICTION ENHANCEMENT

SEC. 201. CLARIFICATION OF COAST GUARD LAW ENFORCEMENT DUTIES.

Section 2 of title 14, United States Code, is amended by striking "on and under" the first time it appears and inserting in lieu thereof "on, under, and over".

SEC. 202. COAST GUARD MARITIME AIR SURVEILLANCE AND INTERDICTION.

Title 14, United States Code, is amended—

(1) in section 2 by striking "United States;" the first place it appears and inserting in lieu thereof "United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;" and

(2) by amending section 89 to read as follows:

"§ 89. Law enforcement

"(a)(1) To prevent, detect, and suppress violations of laws of the United States, the Secretary may—

"(A) in the case of a vessel subject to the jurisdiction, or to the operation of law, of the United States, make inquiries, examinations, inspections, searches, seizures, and arrests on the high seas and waters subject to the jurisdiction of the United States;

"(B) in the case of an aircraft subject to the jurisdiction or to the law of the United States—

"(i) make inquiries, examinations, inspections, searches, and seizures of aircraft; and

"(ii) order aircraft to a landing area; and

"(C) take any other lawful action.

"(2) In exercising authority of the Secretary under subsection (a) with respect to any vessel or aircraft subject to the jurisdiction or law of the United States, a Coast Guard officer may—

"(A) order the vessel or aircraft to stop or proceed to a landing area, as applicable;

"(B) at any time go on board the vessel or aircraft;

"(C) address inquiries to those on board the vessel or aircraft;

"(D) examine the documents and records of the vessel or aircraft;

"(E) examine, inspect, and search the vessel or aircraft;

"(F) use all necessary force to compel compliance with lawful orders of the officer; and

"(G) take any other lawful action.

"(b)(1) When inquiries, examinations, inspections, or searches authorized by this section indicate that a violation of the laws of the United States making an individual subject to arrest is being or has been committed by an individual, a Coast Guard officer may—

"(A) arrest the individual;

"(B) pursue and arrest on shore or at a landing area any individual who is escaping to shore or from a landing area; and

"(C) take any other lawful action.

"(2) A vessel or aircraft, or any part of the goods on a vessel or aircraft, or both, may be seized by a Coast Guard officer if—

"(A) probable cause exists that a violation of the laws of the United States has been committed rendering the vessel, aircraft, or goods on the vessel or aircraft liable to forfeiture under the laws of the United States; or

"(B) seizure is necessary to secure a civil penalty under any law of the United States.

"(c) When a Coast Guard officer exercises authority granted by this section, the officer—

"(1) is deemed to be acting as an agent of the particular department, agency, or instrumentality of the United States charged with the administration of the particular law; and

"(2) is subject to the rules and regulations prescribed by that department, agency, or instrumentality with respect to the enforcement of that law.

"(d) Authority granted by this section to a Coast Guard officer—

"(1) is in addition to any other authority granted by law to the officer; and

"(2) shall not be considered to limit any other authority granted by law to that officer.

"(e) In this section, the term 'Coast Guard officer' means a commissioned, warrant, or petty officer of the Coast Guard.".

SEC. 203. COAST GUARD ACCESS TO CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended as follows:

(1) USES OF FUND.—Subsection (a) is amended to read as follows:

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the "fund"), which shall be available to the United States Customs Service and the United States Coast Guard with respect to seizures and forfeitures by the United States Customs Service and by the United States Coast Guard under any law enforced or administered by the Customs Service or the Coast Guard for payment (to the extent that the payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure (including investigative costs leading to seizures) or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a) of this Act), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for these costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to the claims at the time of seizure;

"(6) of expenses incurred in bringing vessels into compliance with applicable environmental laws before disposing of the vessels by sinking.

In addition to the purposes described in paragraphs (1) through (6), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, or aircraft available for official use by the Customs Service or the Coast Guard;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service or the Coast Guard in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619 of this Act.".

(2) PAYMENTS FROM FUND TO COAST GUARD.—Subsection (b)(2) is amended to read as follows:

"(2)(A) Payments to the Coast Guard under this section shall be made by the Commissioner of Customs to reimburse the applicable appropriation of the Coast Guard.

"(B) Payments to the Coast Guard under subsection (a)(1)—

"(i) shall not exceed the value of the property seized by the Coast Guard at the time of the seizure; and

"(ii) shall have priority over and shall not be affected by payments made under paragraphs (2) through (6) of subsection (a).".

(3) DEPOSITS OF FORFEITURE PROCEEDS INTO FUND.—Subsection (c) is amended—

(A) by striking "during the period beginning on the date of the enactment of this section, and ending on September 30, 1987,"; and

(B) by striking "administered by the United States Customs Service," and inserting in lieu thereof "administered by the United States Customs Service or the United States Coast Guard".

SEC. 204. AUTHORITY AND PROTECTION OF COMMANDING OFFICERS ON NAVAL VESSELS TO WHICH COAST GUARD PERSONNEL ARE ASSIGNED.

(a) IN GENERAL.—Section 637 of title 14, United States Code, is amended to read as follows:

"§ 637. Stopping vessels; immunity of commanding officer

"(a) Whenever any vessel liable to seizure or examination does not stop, on being ordered to do so or on being chased by any authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for the authorized vessel or authorized aircraft, the person in command or in charge of an authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not stop.

"(b) The person in command of an authorized vessel or authorized aircraft and all persons acting by or under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested because a person is killed or wounded by such firing, the person prosecuted or arrested shall be admitted to bail immediately.

"(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

"(1) it is a Coast Guard vessel or aircraft; or

"(2) it is a surface naval vessel on which a member of the Coast Guard is assigned under section 379 of title 10, United States Code.".

(b) CONFORMING AMENDMENT.—The item relating to section 637 in the table of sections at the beginning of chapter 17 of title 14, United States Code, is amended to read as follows:

"637. Stopping vessels; immunity of commanding officer.".

SEC. 205. INDEMNIFICATION OF COAST GUARD MEMBERS AND EMPLOYEES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 644 the following:

"§ 645. Indemnification of Coast Guard members and employees

"The Commandant may indemnify any member or employee of the Coast Guard against any claim or judgment against the member or employee if the claim or judgment arises out of an act committed, as determined by the Commandant, within the scope of the official duties of the member or employee in carrying out drug enforcement activities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"645. Indemnification of Coast Guard members and employees.".

SEC. 206. AUTHORIZATION OF APPROPRIATIONS FOR COAST GUARD.

(a) AUTHORIZATION.—There are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1988 the following:

(1) $155,000,000 for acquisition and construction of—

(A) 110 foot patrol boats;

(B) HH-60 helicopters; and

(C) forward looking radars for long-range surveillance aircraft.

(2) $17,000,000 for operation and maintenance of equipment obtained with amounts appropriated under paragraph (1).

(3) Amounts necessary for personnel to operate equipment obtained with amounts appropriated under paragraph (1).

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—The amounts authorized to be appropriated for the Coast Guard by this section are in addition to any amounts otherwise authorized by law.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall require the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose.

SEC. 207. SUBMISSION TO CONGRESS OF PROPOSED LEGISLATION RELATING TO SPECIAL RESTRICTIONS AND INSPECTIONS FOR VESSELS ARRIVING FROM DRUG-PRODUCING COUNTRIES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with other drug law enforcement agencies, shall submit to Congress a draft of legislation—

(1) to restrict vessels and aircraft with cargoes and containers from, or shipped through, countries certified by the Secretary of State to be drug-producing countries; and

(2) to subject those vessels and aircraft and their cargoes and containers to quarantine and inspection, including provisions for assessment of fees under section 9701 of title 31, United States Code.

TITLE III—GREAT LAKES DRUG INTERDICTION

SEC. 301. INTERAGENCY AGREEMENT.

The Secretary of Transportation and the Commissioner of Customs shall enter into an agreement for the purpose of increasing the effectiveness of maritime drug interdiction activities of the Coast Guard and the Customs Service in the Great Lakes area.

SEC. 302. INCREASED USE OF LONG-RANGE SURVEILLANCE AIRCRAFT IN GREAT LAKES AREA.

The Secretary of Transportation, the Commissioner of the Customs, the Secretary of the Navy, and the Secretary of the Air Force shall each take steps as may be necessary and appropriate to increase the use of long-range surveillance aircraft of those agencies to detect vessels engaged in drug smuggling in the Great Lakes area.

SEC. 303. NEGOTIATIONS WITH CANADA ON DRUG ENFORCEMENT COOPERATION.

The Secretary of State shall enter into negotiations with the Government of Canada for the purpose of establishing an agreement between the United States and Canada which provides for increased cooperation and sharing of information between United States and Canadian law enforcement officials with respect to illegal drug interdiction efforts conducted along the boarder between the United States and Canada.

TITLE IV—VESSEL IDENTIFICATION

SEC. 401. UNITED STATES VESSEL.

(a) DEFINITION.—Chapter 1 of title I, United States Code, is amended by adding at the end the following:

"§ 7. United States Vessel

"The term 'United States vessel' means a vessel documented under chapter 121 or numbered under chapter 123 of title 46, or titled under the law of a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

"§ 8. Documented Vessel

"The term 'documented vessel' means a vessel for which a certificate of documentation has been issued under Chapter 121 of title 46.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6 the following:

"7. United States Vessel.
"8. Documented Vessel.".

(c) REFERENCES IN OTHER LAWS.—

(1) Title 46, United States Code is amended as follows:

(A) Strike, "vessel of the United States" whenever it appears and substitute "United States vessel";

(B) Sections 2101 (10), (45), and (46) are repealed.

(2) Before 60 days after the date of enactment, the Secretary of Transportation shall submit legislation to Congress to conform references to vessels intended to be referred to as United States vessels or documented vessels (as those terms are defined in title 1, United States Code, as amended by this section) in other laws of the United States.

SEC. 402. VESSEL AGENT IDENTIFICATION.

(a) Section 12103(c)(2) is amended to read as follows:

"(2) identify the owner of the vessel and an individual designated as the agent of the owner; and".

(b) A certificate of documentation issued before the date of enactment of this Act continues in effect until the certificate is renewed.

SEC. 403. RECREATIONAL VESSEL TITLING.

Title 46, United States Code, is amended as follows:

(1) Section 12113 is amended by striking "and instruments affecting title to, or interest in, documented vessels may be recorded".

(2) Section 13106(b)(8) is amended by striking "titling programs." and substituting "titling programs that include a method for centrally and uniformly recording maritime commercial instruments and liens.".

SEC. 404. STATE GRANT PROGRAM.

(a) AUTHORIZATION OF GRANTS.—The Secretary of Transportation may make grants to States for use in establishing or upgrading State recreational vessel uniform title programs.

(b) ADMINISTRATION.—The Secretary of Transportation shall—

(1) make the first grant under this section not later than January 1, 1989; and

(2) not make more than 1 grant under this section to any State.

(c) RECREATIONAL VESSEL UNIFORM TITLING PROGRAM DEFINED.—In this section, the term "recreational vessel uniform titling program" means a titling program of a State consistent with the guidelines established under section 13106(b) of title 46, United States Code.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to make grants under this section $500,000 for fiscal year 1989. Amounts appropriated for grants under this section shall be in addition to any amounts appropriated to provide assistance for the purpose described in section 13106(b)(8) of title 46, United States Code.

TITLE V—REORGANIZATION TO COORDINATE MARITIME LAW ENFORCEMENT PROGRAMS

SECTION 501. SHORT TITLE.

This title may be cited as the "Federal Maritime Administration Act".

SEC. 502. ESTABLISHMENT OF FEDERAL MARITIME ADMINISTRATION.

Chapter 1 of title 49, United States Code, is amended by striking out sections 108, 109, and 110 and inserting in lieu thereof the following:

"§ 108. Federal Maritime Administration

"(a) The Federal Maritime Administration is established as an administration in the Department of Transportation.

"(b) The Federal Maritime Administration shall consist of—

"(1) the Coast Guard; and

"(2) the National Maritime Service.

"(c)(1) The Federal Maritime Administration shall be headed by the Under Secretary for Maritime Affairs and Readiness, who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The Under Secretary for Maritime Affairs and Readiness—

"(A) shall report directly to the Secretary of Transportation;

"(B) shall serve as the chief advisor to the Secretary of Transportation on maritime matters;

"(C) shall serve as the primary liaison to the Department of Defense for maritime readiness matters relating to the Department of Transportation;

"(D) shall carry out duties and powers prescribed by the Secretary of Transportation; and

"(E) may reallocate functions between the Coast Guard and the National Maritime Service.".

"(d) There shall be in the Federal Maritime Administration the Office of Drug Interdiction Coordination, which shall coordinate all programs of the Federal Maritime Administration relating to illegal drug interdiction.".

SEC. 503. RENAMING OF EXISTING MARITIME ADMINISTRATION.

The Maritime Administration transferred to the Department of Transportation by section 2 of the Maritime Act of 1981 (46 U.S.C. App. 1601)—

(1) shall be known as the National Maritime Service;

(2) shall be a unit of the Federal Maritime Administration established by section 108 of title 49, United States Code (as amended by this title); and

(3) shall be headed by a Director who shall report to the Under Secretary for Maritime Affairs and Readiness.

SEC. 504. TRANSFER OF CERTAIN MARITIME FUNCTIONS OF NATIONAL OCEAN SERVICE AND NATIONAL WEATHER SERVICE.

(a) IN GENERAL.—There are transferred to and vested in the Secretary of Transportation (hereinafter in this title referred to as the "Secretary"), acting through the Federal Maritime Administration—

(1) the functions of the National Ocean Service in the National Oceanic and Atmospheric Administration of the Department of Commerce relating to—

(A) charting and geodetic services; and

(B) marine operations; and

(2) the functions of the National Weather Service of the Department of Commerce relating to the data buoy center.

(b) RELATED TRANSFERS AND ALLOCATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this title and subject to paragraphs (2) and (3) and section 1531 of title 31, United States Code, there are transferred to the Secretary for appropriate allocation—

(A) personnel;

(B) assets, liabilities, contracts, property (including aircraft and vessels), and records; and

(C) unexpended balances of appropriations, authorizations, allocations, and other funds;

employed, held, used, arising, available, or to be made available in connection with the functions transferred by subsection (a).

(2) PERSONNEL, AIRCRAFT, AND VESSELS.—Personnel, aircraft, and vessels transferred under paragraph (1)—

(A) include the Commissioned Officer Corps and all aircraft and vessels of the National Oceanic and Atmospheric Administration;

(B) shall be a unit within the Coast Guard; and

(C) shall be employed primarily in performing the duties of the National Ocean Service transferred by section 504.

(3) USE OF PERSONNEL, AIRCRAFT, AND VESSELS BY OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—This section shall not be construed to restrict the use of personnel, aircraft, and vessels transferred by this section in performance of functions under agreements with other Federal agencies.

(B) USE BY NOAA.—The Secretary shall provide to the Administrator of the National Oceanic and Atmospheric Administration on a reimbursable basis use of the personnel, aircraft, and vessels transferred to the Secretary under paragraph (1). The Secretary and the Administrator shall enter into a memorandum of agreement establishing the terms under which use of those personnel, aircraft, and vessels shall be provided. The memorandum shall require the Administrator to report to the Secretary not later than January 1 of each year regarding the anticipated needs of the Administrator during the year for use of those personnel, aircraft, and vessels.

(4) USE OF FUNDS.—Except as otherwise provided in this title, unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) EFFECT ON PERSONNEL.—

(1) PRESERVATION OF GRADE AND COMPENSATION FOR 1 YEAR.—Except as otherwise provided in this title, the transfer pursuant to this title of any full-time personnel or part-time personnel holding permanent positions shall not cause any of those personnel to

be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department of Transportation.

(2) PRESERVATION OF COMPENSATION FOR EXECUTIVE SCHEDULE APPOINTEES.—Any person who—

(A) on the day preceding the effective date of this title, was employed in a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code; and

(B) without a break in service, is thereafter employed pursuant to this title in a position in the Department of Transportation having duties comparable to the duties performed by the person in the previous position;

shall continue to be compensated at not less than the rate at which they were compensated in the previous position, for the duration of the service of the person in the subsequent position.

(d) RECOMMENDATION OF ADDITIONAL TRANSFERS.—The Secretary shall, in consultation with the heads of other Federal departments and agencies—

(1) review the functions of other Federal departments and agencies related to—

(A) the formulation and administration of Federal maritime policy, including maritime drug law enforcement policy,

(B) vessel assistance programs,

(C) regulation of shipping, and

(D) weather services affecting maritime transportation; and

(2) submit to Congress not later than 1 year after the date of the enactment of this title—

(A) recommendations regarding which of those functions should be transferred to the Federal Maritime Administration; and

(B) a list of additional conforming amendments to existing law which reflect the transfers of functions made by this title.

SEC. 505. REDESIGNATION OF NOAA COMMISSIONED OFFICER CORPS.

(a) REDESIGNATION.—The Commissioned Officer Corps of the National Oceanic and Atmospheric Administration transferred under section 504(b)(1) shall be known as the Commissioned Officer Corps of the Federal Maritime Administration.

(b) RIGHTS, PRIVILEGES, AND BENEFITS.—Members of the Commissioned Officer Corps of the Federal Maritime Administration shall be entitled to rights, privileges, and benefits equivalent to the rights, privileges, and benefits available prior to the date of the enactment of this title to commissioned officers of—

(1) the National Oceanic and Atmospheric Administration; and

(2) the Coast Guard.

SEC. 506. INCIDENTAL TRANSFERS, TERMINATIONS, AND MEASURES.

(a) DETERMINATIONS AND DISPOSITIONS.—The Director of the Office of Management and Budget shall, to the extent necessary to carry out this title—

(1) make determinations regarding the functions transferred by this title; and

(2) make additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions.

(b) TERMINATIONS AND OTHER MEASURES.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and take any other measures necessary to carry out the purposes of this title.

(c) Transfer of SES Positions.—After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget may make any determinations that may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this title.

SEC. 507. SAVINGS PROVISIONS.

(a) Continuity of Legal Force and Effect.—An order, determination, rule, regulation, permit, grant, contract, certificate, license, commission, or privilege in effect on the date of the enactment of this title which was issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or a court of competent jurisdiction in the performance of functions which are transferred under this title to the Secretary or the Department of Transportation shall continue in effect according to its terms until modified, terminated, superseded, set aside, or revoked by the President, the Secretary or other authorized official, a court of competent jurisdiction, or operation of law.

(b) Pending Proceedings.—

(1) Proceedings not affected.—This title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pend-

ing on the effective date of this title before any department, agency, commission, or component thereof, functions of which are transferred by this title.

(2) ORDERS, APPEALS, AND PAYMENTS.—

(A) IN GENERAL.—Orders shall be issued in proceedings referred to in paragraph (1), appeals shall be taken therefrom, and payments shall be made pursuant to those orders as if this title had not been enacted.

(B) ORDERS CONTINUE IN EFFECT.—Orders issued in any of those proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION OF PROCEEDING.—Nothing in this subsection shall be construed to prohibit the discontinuance or modification of a proceeding referred to in paragraph (1) under the same terms and conditions and to the same extent that the proceeding could have been discontinued or modified if this title had not been enacted.

(4) ISSUANCE OF REGULATIONS.—The Secretary may issue regulations providing for the orderly transfer to the Department of Transportation of proceedings continued under this subsection.

(c) NO EFFECT ON JUDICIAL PROCEEDINGS.—Except as provided in subsection (e)—

(1) this title shall not affect any suit commenced before the effective date of this title; and

(2) proceedings shall be had, appeals taken, and judgments rendered in those suits in the same manner and effect as if this title had not been enacted.

(d) NONABATEMENT OF PROCEEDINGS.—

(1) SUITS BY AND AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of the individual as an officer of any department or agency, functions of which are transferred by this title, shall abate by reason of the enactment of this title.

(2) CAUSES OF ACTION BY OR AGAINST AGENCIES AND OFFICERS.—No cause of action by or against any department or agency, functions of which are transferred by this title, or by or against any officer thereof in the official capacity of that officer shall abate by reason of the enactment of this title.

(e) CONTINUATION OF SUIT WITH SUBSTITUTION OF PARTIES.—If, before the date of the enactment of this title, any department or agency, or officer thereof in the official capacity of that officer, is a party to a suit, and under this title any function of that department, agency, or officer is transferred to the Secretary or any other official of the Department of Transportation, then the suit shall be continued with the Secretary or other appropriate official of the Department of Transportation substituted or added as a party.

(f) REVIEW OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—

(1) IN GENERAL.—Orders and actions of the Secretary in the exercise of functions transferred under this title shall be subject to judicial review to the same extent and in the same manner as if the orders and actions had been by the agency or office, or part thereof, exercising the functions immediately preceding their transfer.

(2) PROCEDURE.—Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this title shall apply to the exercise of that function by the Secretary.

SEC. 508. REFERENCE IN OTHER LAW.

Any reference in any other Federal law to any department, commission, agency, office, officer transferred by this title, or to any function thereof exercised after the date of the enactment of this title, shall be considered to be a reference to the Secretary or other appropriate official, component, or function of the Department of Transportation.

SEC. 509. TRANSITION.

With the consent of the appropriate department or agency head concerned, and for any period of time that may reasonably be needed to facilitate the orderly implementation of this title, the Secretary may use—

(1) the services of officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department of Transportation; and

(2) funds appropriated for or to those functions or offices.

SEC. 510. LEVELS OF PAY.

(a) UNDER SECRETARY FOR MARITIME AFFAIRS AND READINESS.—Section 5313 of title 5, United States Code, is amended by adding at the end—

"Under Secretary for Maritime Affairs and Readiness.".

(b) ADMINISTRATOR, MARITIME ADMINISTRATION.—Section 5314 of title 5, United States Code, is amended by striking—

"Administrator, Maritime Administration."

and inserting—

"Director, National Maritime Service.".

SEC. 511. ESTABLISHMENT OF MERCHANT MARINE RESERVE.

(a) ESTABLISHMENT.—Section 701 of title 14, United States Code, is amended to read as follows:

"§ 701. Organization

"(a) The Coast Guard Reserve is a component of the Coast Guard, and shall be organized, administered, trained, and supplied under the direction of the Commandant.

"(b) There shall be within the Coast Guard Reserve a Merchant Marine Reserve, which shall consist of members of the Coast Guard Reserve with special knowledge or expertise regarding merchant marine affairs.".

SEC. 512. ISSUANCE OF REGULATIONS.

Not later than 1 year after the date of the enactment of this title, the Secretary shall issue final regulations implementing this title.

SEC. 513. RECOMMENDATIONS REGARDING CONSOLIDATION OF BUDGET AUTHORITY.

Not later than 1 year after the date of the enactment of this title, the Secretary of Transportation, in consultation with the Director of the Office of Management and Budget, shall recommend to the Congress methods for consolidating in a single functional category for purposes of the Congressional Budget and Impoundment Control Act of 1974 all budget authority relating to the Federal Maritime Administration (as established by section 502 of this title), including the military programs conducted by the Coast Guard.

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100TH CONGRESS
2D SESSION

H. R. 4658

To provide for more effective Coast Guard enforcement of laws relating to drug abuse.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1988

Mr. HUTTO (for himself and Mr. JONES of North Carolina) introduced the following bill; which was referred jointly to the Committees on Merchant Marine and Fisheries and Ways and Means

---

A BILL

To provide for more effective Coast Guard enforcement of laws relating to drug abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Drug Enforcement Act of 1988".

SEC. 2. AUTHORITY AND PROTECTION OF COMMANDING OFFICERS ON NAVAL VESSELS TO WHICH COAST GUARD PERSONNEL ARE ASSIGNED.

(a) IN GENERAL.—Section 637 of title 14, United States Code, is amended to read as follows:

"§ 637. Stopping vessels; immunity for firing at or into vessel

"(a) Whenever any vessel liable to seizure or examination does not bring-to, on being ordered to do so or on being pursued by any authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for such authorized vessel or authorized aircraft, the person in command or in charge of such authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not bring-to.

"(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under such person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by such firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

"(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

"(1) it is a Coast Guard vessel or aircraft; or

"(2) it is a surface naval vessel on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10, United States Code.".

(b) **Conforming Amendment.**—The item relating to section 637 in the table of sections at the beginning of chapter 17 of title 14, United States Code, is amended to read as follows:

"637. Stopping vessels; immunity for firing at or into vessel.".

SEC. 3. AMENDMENTS TO CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C 1613b) is amended as follows:

(1) **Uses of fund.**—Subsection (a) is amended to read as follows:

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the "fund"), which shall be available to the United States Customs Service and the United States Coast Guard, subject to appropriation, with respect to seizures and forfeitures by the United States Customs Service and by the United States Coast Guard under any law enforced or administered by the Customs Service or the Coast Guard for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure (including investigative costs leading to seizures) or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a) of this Act), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure;

"(6) of expenses incurred in bringing vessels into compliance with applicable environmental laws before disposing of the vessels by sinking.

In addition to the purposes described in paragraphs (1) through (6), the fund is available for—

"(i) purchases by the Customs Service of evidence of—

"(I) smuggling of controlled substances, and

"(II) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(ii) the equipping for law enforcement functions of any vessel, vehicle, aircraft, or structure available for official use by the Customs Service or the Coast Guard;

"(iii) the reimbursement, at the discretion of the Secretary, of private citizens for expenses incurred by them in cooperating with the Customs Service in investigations and undercover law enforcement operations; and

"(iv) the publicizing of the availability of rewards under section 619 of this Act.".

(2) PAYMENTS TO COAST GUARD.—Subsection (b)(2) is amended to read as follows:

"(2)(A) Payments to the Coast Guard under this section shall be made by the Commissioner of Customs to reimburse the applicable appropriation of the Coast Guard.

"(B) Payments to the Coast Guard for a fiscal year under subsection (a)(1)—

"(i) shall not exceed the value of the property seized by the Coast Guard during that fiscal year, as such value is determined at the time of the seizure; and

"(ii) shall have priority over and shall not be affected by other payments for the fiscal year made under subsection (a).

"(C) For each fiscal year for which the total amount appropriated from the fund is less than the total amount of expenses which are authorized by subsection (a)(1) to be paid from the fund, the amount of payment to the Coast Guard pursuant to subsection (a)(1) shall bear the same proportion to the total amount appropriated from the fund for the fiscal year as the total amount of expenses of the Coast Guard which are authorized by subsection (a)(1) to be paid from the fund for the fiscal year bears to the total amount of expenses of the Coast Guard and the Customs Service which are authorized by subsection (a)(1) to be paid for the fiscal year.

"(D) In each fiscal year for which the total amount appropriated from the fund is greater than the total amount of expenses which are authorized by subsection (a)(1) to be paid, the Commissioner of Customs shall pay to the Coast Guard, in addition to amounts paid to the Coast Guard pursuant to subsection (a)(1), an amount equal to one half of the remainder of the total amount appropriated from the fund for the fiscal year after the payment of expenses under subsection (a)(1).".

(3) DEPOSITS INTO FUND.—Subsection (c) is amended—

(A) by striking "during the period beginning on the date of the enactment of this section, and ending on September 30, 1987,"; and

(B) by striking "administered by the United States Customs Service," and inserting in lieu thereof "administered by the United States Customs Service or the United States Coast Guard".

SEC. 4. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) SECTION 3(a) AMENDMENT.—Section 3(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (46 U.S.C. App. 1903(a)), is amended by inserting after "jurisdiction of the United States," the following: "or who is a citizen of the United States or a resident alien of the United States on board any vessel,".

(b) SECTION 3(b) AMENDMENT.—Section 3(b)(2) of such Act (46 U.S.C. App. 1903(b)(2)) is amended by inserting after "High Seas" the following: "and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law".

SEC. 5. INDEMNIFICATION OF COAST GUARD MEMBERS AND EMPLOYEES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 644 the following:

"§ 645. Indemnification of Coast Guard members and employees.

"The Commandant may indemnify any member or employee of the Coast Guard against any claim or judgment against such member or employee if the claim or judgment arises out of an act committed, as determined by the Commandant, within the scope of the official duties of the member or employee in carrying out drug enforcement activities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"645. Indemnification of Coast Guard members and employees.".

SEC. 6. AMENDMENTS TO SUITS IN ADMIRALTY ACT AND PUBLIC VESSELS ACT.

(a) AMENDMENT TO SUITS IN ADMIRALTY ACT.—Section 2 of the Act of March 9, 1920 (46 U.S.C. App. 742; commonly known as the Suits in Admiralty Act) is amended—

(1) in the first sentence by striking "In cases" and inserting in lieu thereof "(a) Subject to subsection (b), in cases"; and

(2) by adding at the end the following:

"(b) No proceeding may be brought under this section with respect to the following claims:

"(1) Any claim based on an act or omission of an employee of the Government exercising due care in executing a statute or regulation, whether or not such statute or regulation is valid.

"(2) Any claim based on the exercise or performance, or a failure to exercise or perform, a discretionary function or duty by a Federal agency or an employee of the United States Government, whether or not involving an abuse of discretion by such agency or employee.

"(3) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

"(4) Any claim arising out of the assessment or collection of any tax or customs duty, the detention of any goods or merchandise, by any officer of the customs or by any other investigative or law enforcement officer.

"(5) Any claim arising out of an act or omission of any employee of the United States in administering the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

"(6) Any claim for damages arising out of the imposition or establishment of a quarantine by the United States.

"(7) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights: *Provided*, That, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this Act shall apply to any claim arising, on or after the date of the enactment of this proviso, out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution.

"(c) In this section, the term 'investigative or law enforcement officer' means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrests for violations of United States law.".

(b) AMENDMENT TO PUBLIC VESSELS ACT.—Section 1 of the Act of March 3, 1925 (46 U.S.C. App. 781; commonly known as the Public Vessels Act) is amended—

(1) by striking "A libel" and inserting in lieu thereof "(a) Subject to subsection (b), a libel"; and

(2) by adding at the end the following:

"(b) No libel or petition may be brought under this section for any claim described in section 2(b)(1) of the Act of March 9, 1920 (46 U.S.C. App. 742(b)(1); commonly known as the Suits in Admiralty Act).".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) Additional Authorization of Appropriations for the Coast Guard.—

(1) Acquisition, construction, and improvements.—There are authorized to be appropriated for acquisition, construction, and improvements of the Coast Guard $264,000,000 for fiscal year 1989, to remain available until expended.

(2) Operating expenses.—There are authorized to be appropriated for operating expenses of the Coast Guard $82,000,000 for fiscal year 1989, to remain available until expended. Amounts appropriated pursuant to this paragraph shall be used to increase by 500 the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal year 1989, and to procure, enhance, relocate, operate, and maintain vessels, aircraft, radar, equipment, and struc-

tures by the Coast Guard for drug interdiction purposes.

(b) AUTHORIZATION ENHANCEMENT.—Amounts and personnel authorized by this section are in addition to any other amounts or personnel strengths authorized for the Coast Guard for any fiscal year.

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THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

JUN 20 1988

The Honorable Walter B. Jones
Chairman
House Committee on Merchant Marine
  and Fisheries
241 Cannon Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I understand that the House Merchant Marine and Fisheries Committee will consider and possibly vote on changes to the Administration's Zero Tolerance anti-drug policy on Tuesday, June 21, 1988, and that those proposed changes range from an outright exemption for so-called "innocent vessel owners" to some kind of constructive seizure.

I want to put this Department firmly on the record as opposed to constructive seizure or to any kind of vessel owner exemption from Zero Tolerance. Both proposals have the net effect of gutting the Zero Tolerance program, which has had a tremendous effect in keeping drugs off boats and in improving marine safety.

Illegal drugs have no place in the marine environment. Zero Tolerance sends a strong message to boat owners and operators that the casual or recreational use of drugs on the water will no longer be tolerated.

The Zero Tolerance Policy is fair warning that anyone who is using or transporting even small amounts of drugs on our waterways--whether it's in a commercial vessel, a row boat, or a million-dollar yacht--not only will be prosecuted to the fullest extent of applicable State and Federal laws, but also will be risking the loss of property. Dilution of this zero tolerance approach to drug violations by the passengers and crew of vessels on our waterways by exceptions to the seizure laws is the equivalent of declaring an "open season" for offshore drug use.

The Coast Guard's implementation guidelines issued on May 23, 1988, ensure that under Zero Tolerance we will be bringing our strongest cases forward and, in doing so, adequately protect vessel owners. Therefore, I do not believe that any other changes to the policy are necessary or advisable.

It is our responsibility to protect recreational boaters and commercial operators from the dangers posed by drug users, and the Zero Tolerance policy is working to accomplish this goal. As we approach the Fourth of July holiday weekend, it is important to remember that as our families and friends make their vacation plans, that drugs present a serious safety threat.

I urge you and the Committee to oppose the "innocent vessel owner" exception or any other dilution of the Zero Tolerance policy. Help me make the motto of every vessel owner in this country "No Drugs on the Boat," and in doing so to show the American people that we are truly serious about fighting drug use in this nation and maintaining safety on our waterways.

Sincerely,

Jim

Jim Burnley

THE SECRETARY OF THE TREASURY
WASHINGTON

August 5, 1988

Dear Mr. Speaker:

I am writing to request that you review provisions in two bills reported by the House Merchant Marine and Fisheries Committee (HR 4658) and the Judiciary Committee (HR 4916). Both contain provisions which would severely restrict the abilities of the Customs Service and other law enforcement agencies, acting pursuant to Customs regulations, to seize and forfeit vessels and other conveyances for drug violations involving personal use quantities.

Section 7 of HR 4658 amends the Controlled Substance Act and the Tariff Act of 1930 to provide that no vessel, vehicle, aircraft or other conveyance may be seized or forfeited for possession of a controlled substance unless the owner or person in charge consented to or had knowledge of the violation. Unfortunately, drug law enforcement officers do not always have the ability to determine the culpability of the owner of the conveyance at the time quantities of narcotics are discovered. The initial seizure, which is distinct from the final forfeiture action, allows time for investigators to clear innocent owners before forfeiture is effected.

Section 8 of HR 4658 requires officers, prior to seizure, to make preliminary determinations as to whether circumstances justify forfeiture, e.g., knowledge of the owner of a drug violation. However, Customs officers are not usually in a position to make such a judgment at the time of seizure. Moreover, two hundred years of legal precedent have established a mechanism for innocent owners to obtain relief from forfeiture through administrative procedures. Those procedures are embodied in 19 USC 1618.

Section 9 would require the Secretary of the Treasury to pay claims for reimbursement for seized property, unless the government can show that claimants had knowledge of the violation in advance. This provision would lead to a barrage of speculative claims and divert enforcement resources from law enforcement needs to claim verifications. It would also change the burden of proof from claimant to government, a critical departure from past precedent.

These provisions, as well as similar provisions in Sections 206 and 209 of HR 4916 (the Judiciary bill), are particularly onerous for areas of the country, such as South Florida and the Southwest Border, where various conveyances are used to transport drugs (in large and small quantities) and where seizure activity is high. A dilution of authority or a shifting of the burden of proof to the government, as contemplated in the above bills, would seriously complicate the already difficult job of drug interdiction, and divert scarce resources away from narcotics enforcement. Even more important than weakening drug law enforcement, these provisions would convey a message contrary to that which the Administration and Congress are trying to get across -- that no amount of illegal drug activity will be tolerated.

As you go forward with the Omnibus Drug Bill, I ask that you give serious consideration to the considerable hardships that these provisions will create for law enforcement, and take the appropriate action to see that they are not part of the final product.

Thank you for your consideration.

Sincerely,

James A. Baker III

James A. Baker, III

The Honorable James C. Wright
Speaker of the House of Representatives
Washington, D.C. 20515

U.S. Department
of Transportation
**United States
Coast Guard**

Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol:
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PREPARED STATEMENT

OF

ADMIRAL PAUL A. YOST
COMMANDANT, UNITED STATES COAST GUARD

BEFORE THE

SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

JUNE 15, 1988

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, IT IS A PLEASURE TO APPEAR BEFORE YOU TODAY TO PROVIDE AN OVERVIEW OF THE COAST GUARD'S DRUG INTERDICTION EFFORTS.

THE COAST GUARD'S DRUG INTERDICTION MISSION HAS UNDERGONE SIGNIFICANT CHANGES OVER THE PAST FEW YEARS. CHANGING NARCOTIC TRAFFICKING PATTERNS, ADOPTION OF MORE COMPLEX TACTICS BY TRAFFICKERS, COOPERATION AND PARTICIPATION OF FOREIGN SOURCE COUNTRIES IN INTERNATIONAL INTERDICTION OPERATIONS, AND INCREASED AUTHORITY AND RESPONSIBILITIES FOR THE COAST GUARD HAVE REQUIRED US TO ADAPT TO WHAT HAS BECOME A VERY SOPHISTICATED AND COMPLEX WAR ON DRUGS. FOR EXAMPLE, EXPENSIVE AND COMPLEX SENSOR SYSTEMS AND PLATFORMS ARE REQUIRED TO DEAL WITH DRUG TRAFFICKERS' INCREASING USE OF AIRCRAFT.

ON THE POSITIVE SIDE, WE HAVE BEEN RECEIVING VALUABLE ASSISTANCE IN OUR DRUG INTERDICTION EFFORTS THROUGH THE FUNDING ENHANCEMENTS WHICH WERE AUTHORIZED BY THE ANTI DRUG ABUSE ACT OF 1986. THE COAST GUARD PORTION OF THE ACT INCLUDED $89M FOR THE ACQUISITION, CONSTRUCTION AND IMPROVEMENTS ACCOUNT TO PROCURE LAW ENFORCEMENT ASSETS AND $39M IN OPERATING EXPENSES. IN ADDITION, THE ACT AUTHORIZED THE ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE, AND IT IMPROVED OTHER LAW ENFORCEMENT STATUTES.

ON A LESS POSITIVE NOTE, COAST GUARD INTERDICTION EFFORTS ARE BEING INCREASINGLY AFFECTED BY CONTINUING BUDGET DEFICIENCIES. THE $103M SHORTFALL IN OUR OPERATING EXPENSE ACCOUNT APPROPRIATED BY CONGRESS FOR FISCAL YEAR 1988 IN THE CONTINUING RESOLUTION IS PROVING TO BE A SERIOUS BLOW TO OUR OPERATIONS. MORE THAN ONE QUARTER OF THE 1988 FISCAL YEAR HAD ELAPSED WHEN THE FINAL CONTINUING RESOLUTION WAS PASSED. ALMOST ONE-HALF HAD ELAPSED BEFORE WE WERE ABLE TO DECOMMISSION SHIPS AND STATIONS. TO STAY WITHIN

BUDGETED PROGRAM HOURS FOR THE LAST THREE QUARTERS, AN ESTIMATED 55 PERCENT REDUCTION IN ROUTINE PATROL HOURS WAS NECESSARY. THE INCREASED ASSETS PROVIDED FOR THE WAR ON DRUGS WILL NOT ENHANCE DRUG INTERDICTION OPERATIONS WITHOUT THE FUNDS TO OPERATE THEM. OUR INTERDICTION TRENDS SHOW THAT WE CAN FIND DRUG TRAFFICKERS WHEN WE ARE OUT IN FORCE AND AGGRESSIVELY SEARCHING FOR DRUG TRAFFICKERS. I NEED TO PUT DETECTION ASSETS IN THE CHOKEPOINTS AND DEPARTURE ZONES WHERE THE TRAFFICKERS ARE MOST VULNERABLE TO INTERDICTION. THE ADDITIONAL RESOURCES PROVIDED PURSUANT TO THE FY 1986 ANTI-DRUG ABUSE ACT AND ANY RESOURCES THAT MIGHT BE PROVIDED AS A RESULT OF SUBSEQUENT AUTHORIZATION ACTS CERTAINLY WON'T CATCH TRAFFICKERS IF THEY ARE TIED UP AT THE DOCK OR SITTING ON A RUNWAY. THE 55 PERCENT REDUCTION IN ROUTINE PATROLS I WAS FORCED TO TAKE THIS YEAR HAS HAD A SERIOUS IMPACT ON SEIZURES. AS A GENERAL RULE, OUR INCREASED PRESENCE IN TRADITIONAL PATROL AREAS HAS INCREASED BOARDINGS AND SEIZURES. MANY COAST GUARD SEIZURES ARE A RESULT OF ROUTINE CUTTER AND AIRCRAFT PATROLS.

IN SPITE OF THE CUTBACKS, WE HAVE HAD SOME SUCCESSES IN OUR DRUG INTERDICTION EFFORTS. I AM HAPPY TO REPORT THAT OUR INTERNATIONAL DRUG INTERDICTION ACTIVITIES ARE MEETING WITH INCREASING SUCCESS. STARTING IN THE FALL OF 1984 WITH OPERATION WAGON WHEEL, THE COAST GUARD'S PORTION OF HAT TRICK I, INTERDICTION ACTIVITIES WERE TAKEN RIGHT TO THE DOORSTEP OF THE PRIMARY SOURCE COUNTRIES OF THE CARIBBEAN BASIN. OPERATION WAGON WHEEL WAS THE FIRST OF SEVERAL MULTIAGENCY, INTERNATIONAL OPERATIONS OF RECENT YEARS EMPLOYING MAXIMUM RESOURCES AND FLEXIBILITY TO COMPLEMENT THE ANTI-DRUG OPERATIONS BEING CARRIED OUT BY FOREIGN FORCES IN SOURCE COUNTRIES, ASHORE AND AFLOAT. THE ANTI-DRUG ABUSE ACT OF 1986 PROVIDED THAT MARITIME LAW ENFORCEMENT IN A CONSENTING NATION'S TERRITORIAL SEA WAS EXCLUDED FROM THE MANSFIELD RESTRICTION. SINCE THE EXCLUSION FOR MARITIME LAW ENFORCEMENT HAS

BEEN IMPLEMENTED, THE COAST GUARD HAS RESPONDED TO REQUESTS FROM THE BAHAMAS, GRENADA, HONDURAS, HAITI, PANAMA, AND THE DOMINICAN REPUBLIC TO ENGAGE IN COOPERATIVE EFFORTS GREATLY EXPANDING INTERDICTION CAPABILITIES IN THESE AREAS. IN 1987 WE FORMED A COAST GUARD CARIBBEAN SQUADRON COMMANDED BY AN EXPERIENCED COAST GUARD OFFICER TO SPECIFICALLY MANAGE OUR COMBINED DEEP CARIBBEAN MARITIME INTERDICTION OPERATIONS.

WE ARE CONTINUING TO WORK WITH THE NAVY IN INCREASING OUR LAW ENFORCEMENT DETACHMENT EFFECTIVENESS. EMBARKING CG PERSONNEL ABOARD NAVY VESSELS FOR LAW ENFORCEMENT PURPOSES WAS CODIFIED BY THE ANTI-DRUG ABUSE ACT OF 1986 IN TITLE 10 USC SECTION 379. I AM VERY PLEASED WITH THE PERFORMANCE OF OUR LAW ENFORCEMENT DETACHMENTS ABOARD NAVY VESSELS. TRAFFICKERS MUST NOW AVOID ALL NAVY AS WELL AS COAST GUARD UNITS SINCE THEY DO NOT KNOW WHETHER THE COAST GUARD LEDET IS ABOARD. THE NAVY IS FULLY COMMITTED TO THE INTERDICTION OF DRUGS AT SEA. ALTHOUGH NAVY AND COAST GUARD RELATED MARITIME SEIZURES HAVE DECLINED SOMEWHAT IN THE PAST YEAR, OUR RECORD SINCE 1 OCTOBER 1986 HAS BEEN IMPRESSIVE. THE NAVY HAS ASSISTED US IN SEIZING 33 VESSELS INCLUDING THE ARREST OF 182 SMUGGLERS AND THE INTERDICTION OF 404,790 POUNDS OF MARIJUANA AND 2,340 POUNDS OF COCAINE, WITH AN ESTIMATED VALUE OF OVER $76M. AN ADDITIONAL TWO HUNDRED LEDET BILLETS, AUTHORIZED BY THE FY 1988 DOD AUTHORIZATION ACT, WILL BE FILLED THIS YEAR AND IN FY 1989. BY THE END OF FY 1989, I EXPECT TO HAVE 500 LEDET PERSONNEL AVAILABLE FOR EMBARKING ON NAVY VESSELS AND AIRCRAFT AND SUPPORTING THE DEPARTMENT OF DEFENSE'S ROLE IN THE WAR ON DRUGS. IT IS IMPORTANT TO NOTE THESE LEDETS ARE COMPOSED OF HIGHLY TRAINED COAST GUARD MARITIME LAW ENFORCEMENT OFFICERS. THEY WORK; THE NAVY LIKES THEM; AND I WOULD NOT LIKE TO SEE THE COMPOSITION OF THESE COHESIVE TEAMS CHANGE.

COAST GUARD AND NAVY EFFORTS AGAINST DRUG TRAFFICKING IN THE MARITIME ENVIRONMENT CANNOT SUCCEED WITHOUT CONSTANT PRESSURE PLACED AGAINST ALL MODES OF TRAFFICKING. IT WAS APPARENT THAT WHILE WE WERE HAVING A SIGNIFICANT IMPACT ON VESSEL DRUG TRAFFICKING, AIR TRAFFICKING WENT VIRTUALLY UNCHECKED, WITH COCAINE AND OTHER HIGH VALUE DRUGS BEING FLOWN THROUGH THE MARITIME REGION AND OFTEN AIRDROPPED OR TRANSHIPPED IN THE BAHAMAS. THE ANTI DRUG ABUSE ACT OF 1986 PROVIDED FOR THE TRANSFER OF FOUR E-2C AIRBORNE EARLY WARNING AIRCRAFT FROM THE NAVY: TWO TO THE CUSTOMS SERVICE AND TWO TO THE COAST GUARD. SUPPORTED BY COAST GUARD HU-25A INTERCEPTORS, COAST GUARD E-2C AIRCRAFT BEGAN INTEGRATED AIR INTERDICTION OPERATIONS IN JANUARY 1987. THESE AIRCRAFT HAVE HELPED EFFECT THE SEIZURE OF NUMEROUS AIRCRAFT AND A SIGNIFICANT AMOUNT OF COCAINE AND MARIJUANA. THREE OF THE EIGHT SENSOR-EQUIPPED HU-25C INTERCEPTORS HAVE BEEN DELIVERED, AND THEIR INTEGRATED INTERCEPT RADAR AND FORWARD LOOKING INFRA-RED (FLIR) SENSORS ARE SUBSTANTIALLY INCREASING OUR AIR INTERCEPT CAPABILITY. THE NAVY HAS INCREASED ITS COMMITMENT OF AIR SEARCH CAPABLE SHIPS DURING OUR CARIBBEAN PULSES, AND I AM CERTAIN THAT THESE ACTIONS WILL INCREASE OUR EFFECTIVENESS IN PROSECUTING THE AIR INTERDICTION MISSION.

ONE OF THE MORE PROMISING DRUG INTERDICTION SUCCESSES IN THE LAST YEAR HAS BEEN OUR INVOLVEMENT AND SUPPORT OF OPERATION BAHAMAS, TURKS AND CAICOS (OPBAT). THESE ISLANDS HAVE BEEN A MAJOR TRANSHIPMENT AREA BECAUSE OF THEIR PROXIMITY TO THE UNITED STATES, BECAUSE OF THEIR NUMEROUS FACILITIES FOR AIRCRAFT AND VESSELS, AND BECAUSE OF THEIR RELATIVELY LIMITED POLICE/DEFENSE RESOURCES. COAST GUARD HH-3F HELICOPTERS HAVE BEEN PROVIDING 24 HOUR DRUG INTERDICTION RESPONSE IN THE NORTHERN BAHAMAS SINCE 1 OCTOBER 1987. IMPROVED COMMUNICATIONS HAVE BEEN INSTALLED, AND WE HAVE ALSO ASSIGNED A COAST GUARD

LIAISON OFFICER TO THE EMBASSY STAFF AND EXPERIENCED WATCHSTANDERS FOR THE OPBAT OPERATIONS CENTER. THESE PERSONNEL RESOURCES HAVE HELPED IMPROVE THE RESPONSIVENESS AND COORDINATION OF THE OPBAT EFFORT. OPBAT IS A TRUE SUCCESS STORY OF INTERAGENCY AND INTERNATIONAL COOPERATION. TO DATE, COAST GUARD OPBAT FORCES HAVE PARTICIPATED IN 40 ARRESTS, THE SEIZURE OF 10,100 POUNDS OF COCAINE, 3,674 POUNDS OF MARIJUANA AND THE INTERDICTION OF 8 AIRCRAFT. WITH A SECOND COAST GUARD HELICOPTER SITE PLANNED FOR LATER THIS YEAR AND A THIRD IN 1989, WE LOOK TO EVEN GREATER SUCCESS IN THE BAHAMAS.

I HAVE LONG BELIEVED THAT INTERDICTION IS NOT THE TOTAL ANSWER TO WINNING THE WAR ON DRUGS. WE CAN WIN THIS DRUG WAR ONLY BY A MULTI-FACETED APPROACH OF SUPPLY AND DEMAND REDUCTION. ONE OF THE WAYS THE COAST GUARD CAN SUPPORT DEMAND REDUCTION IS TO MAKE ILLEGAL USERS RESPONSIBLE FOR THEIR BEHAVIOR. WE HAVE DONE THIS WITH OUR SUCCESSFUL DRUG TESTING PROGRAM FOR ALL COAST GUARD MILITARY PERSONNEL. AS OTHER AGENCIES, WITH CONGRESSIONAL SUPPORT, EXPAND ZERO TOLERANCE PROGRAMS, TRUE DEMAND REDUCTION SHOULD TAKE PLACE, MAKING OUR INTERDICTION JOB BOTH EASIER AND MORE EFFECTIVE. I EXPECT THAT VERY SHORTLY THE USE OF RECREATIONAL DRUGS WILL DROP OFF DRAMATICALLY ON OUR WATERWAYS, LEADING TO A SAFER BOATING ENVIRONMENT FOR RECREATIONAL BOATERS, AND A SAFER WORKPLACE FOR COMMERCIAL OPERATORS.

WITH YOUR HELP WE HAVE ACHIEVED SOME NOTABLE SUCCESSES TO DATE, BUT WE MUST ALL DO MORE. WE MUST ATTACK THE PROBLEM. WE MUST FOCUS ON STOPPING DRUGS AT OR NEAR THE SOURCE, INTERCEPTING WHOLESALE QUANTITIES AS CLOSE TO THE POINT OF ORIGIN AS POSSIBLE. IN ORDER TO BE EFFECTIVE IN DOING THAT, THE COAST GUARD NEEDS:

1. IMPROVED ACCESS TO INTELLIGENCE DEVELOPED BY THE NATIONAL INTELLIGENCE COMMUNITY. BUT MORE IMPORTANT, WE MUST WORK WITH THOSE AGENCIES TO GREATLY INCREASE THEIR SOURCES OF DRUG INTELLIGENCE. WE MUST BE MORE KNOWLEDGEABLE ABOUT BOTH THE TACTICS AND THE STRATEGIES BEING USED BY THE DRUG SMUGGLERS AND KEEP UP TO DATE ON CHANGES IN THESE TACTICS AND STRATEGIES SO THAT WE CAN USE OUR RESOURCES TO BEST ADVANTAGE.

2. IMPROVED COMMAND, CONTROL AND COMMUNICATION CAPABILITIES. WE MUST BE ABLE TO CONTROL OUR ASSETS EFFECTIVELY.

3. FULLY TRAINED AND QUALIFIED PERSONNEL. OUR PERSONNEL INTERACT DAILY WITH THE WHOLE SPECTRUM OF THE PUBLIC, FROM LAW ABIDING CITIZENS TO HARDENED CRIMINALS, IN AMBIGUOUS AND POTENTIALLY HOSTILE SITUATIONS. THEY MUST BE WELL SCHOOLED IN HOW TO DEAL WITH ALL CONTINGENCIES.

4. WE NEED TO INCREASE OUR SURVEILLANCE AND DETECTION. WE CAN'T CATCH WHAT WE CAN'T FIND. IT IS ESSENTIAL THAT WE HAVE, AS REQUESTED IN THE PRESIDENT'S BUDGET, ADEQUATE FUNDING. THE COAST GUARD FY 89 BUDGET WILL GREATLY HELP IN THIS AREA.

5. CLEAR DEFINITIONS OF RESPONSIBILITIES, AUTHORITIES AND JURISDICTION WITHIN THE FEDERAL GOVERNMENT SO THAT AGENCIES INVOLVED IN EVERY ASPECT OF THE DRUG PROBLEM HAVE CLEAR MARCHING ORDERS. THE NATIONAL DRUG POLICY BOARD HAS ADDRESSED THIS PROBLEM BY ARBITRATING AGREEMENTS BETWEEN THE COAST GUARD AND THE CUSTOMS SERVICE AND OTHER AGENCIES.

WHAT CAN YOU DO?

CONGRESS CAN DEMONSTRATE ITS LEADERSHIP IN DRUG INTERDICTION. YOU CAN PROVIDE THE RESOURCES WE NEED TO DO THE JOB -- NOT ONLY THE ACQUISITION, CONSTRUCTION AND IMPROVEMENTS FUNDS TO ACQUIRE THE NECESSARY ASSETS, BUT THE OPERATING EXPENSES FUNDING TO OPERATE THEM TO THE LIMITS OF THEIR CAPABILITIES. A $60M REPROGRAMMING REQUEST FOR FY 1988 WAS SUBMITTED TO CONGRESS SEVERAL MONTHS AGO. WE BADLY NEED THESE FUNDS TO MAKE FULL USE OF OUR EXISTING INTERDICTION ASSETS WHICH ARE PRESENTLY BEING UTILIZED AT MUCH LESS THAN THEIR FULL CAPABILITY. WE ALSO NEED THE FULL AMOUNT REQUESTED IN THE PRESIDENT'S FY 1989 BUDGET. BY PROVIDING THESE AMOUNTS, CONGRESS WILL BE SENDING A STRONG MESSAGE OF COMMITMENT TO VICTORY IN THIS WAR ON DRUGS.

AS A FINAL THOUGHT, I BELIEVE OUR NATIONAL DRUG INTERDICTION STRATEGY IS SOUND. THE COAST GUARD IS PLAYING AND CAN CONTINUE TO PLAY AN ESSENTIAL ROLE IN THAT STRATEGY. TO INCREASE OUR EFFECTIVENESS, I NEED THE SPECIFIC ITEMS I'VE MENTIONED, IN PARTICULAR, I NEED THE FUNDING TO FULLY OPERATE ALL MY ASSETS TO THEIR MAXIMUM CAPABILITY.